TITLE 9

MUNICIPAL UTILITIES

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CHAPTER 1

SOLID WASTE COLLECTION AND DISPOSAL

9-1-1. Short title.

This ordinance shall be known as the Hot Springs Solid Waste Ordinance.

9-1-2. Definitions.

As used throughout this chapter, the following words and phrases have the following meanings. Words in a plural number include the singular number; words in the singular number include the plural number; and the word *shall*, when used in this chapter, is always mandatory.

(a) *Waste components*.

(1) *Animal waste:* Includes waste from kennels, pet pens, veterinary establishments and others of a similar nature.

(2) *Bulk waste:* Includes, manufactured items such as appliances, furniture and other generated waste that is not expressly prohibited from collection by this ordinance. Bulk waste includes, but is not limited to, like items with weight or volumes greater than allowed in approved containers.

(3) *Combustible waste:* Consists of miscellaneous burnable materials or materials that may spontaneously burn at a certain flash point and is the organic component of solid waste.

(4) *Commercial solid waste:* All types of solid waste generated by any hotel, motel, apartment house, rooming house, business, industry, school, church, prison, store, office, restaurant, warehouse, public or semi-public establishment of any nature or kind whatsoever other than a single residential unit. A multi-living unit in which waste is picked up in one place for a single client may be considered a commercial establishment.

(5) *Construction and demolition waste:* Any and all material and debris that might result from the construction or demolition of any building or other manmade structure including but not limited to single and multi-family dwellings, commercial buildings, road and highway construction and repair, remodeling and additions to existing structures and roofing. Materials may include (but are not limited to) dimensional lumber, roofing materials, bricks, concrete blocks, siding, gypsum

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Cross reference -§16-4-1 et seq, Subdivision Code.

(drywall), masonry, metal, cardboard, concrete, fill materials (including earth, gravel and stone), glass, and any other material that may be used in any construction project or may be salvaged from any demolition project.

(6) *Contained solid waste:* All solid waste that is placed in the prescribed container for collection.

(7) *Friable asbestos material:* Any material containing more than one percent (1%) asbestos by content that hand pressure can crumble, pulverize or reduce to powder when dry, or has the potential to become friable when broken, crushed, sanded, sawed, or cut.

(8) *Garbage:* Solid wastes from the domestic and commercial preparations, cooking and disposal of food, and from the handling, storage and sales of produce.

(9) *Hazardous waste:* Any chemical, compound, mixture, substance, product or other material which is hazardous waste pursuant to the Arkansas Hazardous Waste Management Act of 1979, as amended and Arkansas Department of Pollution Control & Ecology ("ADPC&E") Regulation 23, as may be amended.

(10) *Hot load:* Any vehicle carrying solid waste observed to be smoldering, smoking, on fire, giving off toxic odor or leaking a caustic substance.

(11) *Household hazardous waste:* Household waste that is excluded as a hazardous waste pursuant to ADPC&E Regulation 23, Section 261.4 (b) (1), as may be amended.

(12) *Household waste:* Any solid waste derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas.

(13) *Industrial solid waste:* Solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under Subtitle C of the Resource Conversation and Recovery Act ("RCRA") or as defined by ADPC&E Regulation 23, Sections 260.10 and 261.3, as may be amended. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: Electric power generation; fertilizer or agricultural chemicals; food and related products or related by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing or foundries; organic chemicals; plastics and resins

manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

(14) *Infectious waste:* Laboratory wastes, including pathological specimens (*i.e.*, all tissues, specimens of blood elements, excreta and secretions obtained from patients and laboratory animals) and disposal fomites (any substance which may harbor or transmit pathogenic organisms) attendant thereto. Such term also means surgical operating room pathologic specimens and disposal fomites attendant thereto and similar disposal materials from outpatient areas and emergency rooms, including equipment, instruments, utensils and fomites of a disposal nature from the rooms of patients who are suspected to have, or have been diagnosed as having a communicable disease and must, therefore, be isolated, as required by public health agencies.

(15) *Medical waste:* A waste from health care related facilities which if improperly treated, handled or disposed of may serve to transmit an infectious disease(s), as defined in Ark. Code Ann. § 20-32-101, et seq.

(16) *Obnoxious materials:* Any solid waste that, when exposed to open air, is unpleasant or offensive to the senses due to its odor or condition.

(17) *Putrescible solid waste:* Solid waste which contains organic matter capable of being decomposed by microorganisms and of such a character and proportion as to be capable of attracting or providing food for birds and other potential disease vectors.

(18) *Recyclables:* Any solid waste including, but not limited to, metals, glass or paper products that can be recovered from other solid waste for the purpose of being collected and recycled under the city's recycling program. Recyclables include such materials from the solid waste stream that can be recovered for reuse in present or reprocessed form.

(19) *Recovered materials:* Includes, but is not limited to metal, paper, glass, plastic, textile, yard trimmings, or rubber materials that have known recycling potential, that can be feasiblely recycled, and have been diverted and source separated or have been removed from the solid waste stream for sale, use or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other, but does not include materials destined for any use that constitutes disposal. Recovered materials as described above are not solid waste for purposes of this chapter.

(20) *Recycling:* The systematic collection, sorting, decontaminating and returning of waste materials to commerce as commodities for use or exchange by separating or diverting an item or items from the solid waste stream for the purpose of processing it or causing it to be processed into a material product, including compost, in order to provide for the final disposition of the material product in a manner other than land filling or incineration.

(21) *Sludge:* Any solid semisolid or liquid waste generated from a municipal, commercial or industrial waste water treatment plant, water supply treatment plant or air pollution control facility exclusive of the treated effluent from a waste water treatment plant.

(22) *Solid waste:* Any garbage or refuse, and other discarded material. Does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. 1342, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 stat. 923).

(23) *Special materials waste:* Any materials that require special handling precautions and disposal procedures by the landfill owner or operator beyond the normal activities associated with landfill operations. Special materials waste includes those items listed in ADPC&E Regulation 22, Chapter 7, as amended, and other process wastes and conditionally exempt small quantity generator wastes requiring special handling procedures.

(24) *Tires:* An item that in its primary form is, or was, a continuous solid or pneumatic rubber covering which is used for encircling the wheel of any vehicle.

(25) *Uncontained solid waste:* All household and commercial solid waste that is not placed in the prescribed container for collection. Yard waste and bulk waste too large for placement in prescribed containers for collection.

(26) *Vehicle parts:* Includes automobile body panels, chassis, engines, transmissions or any other large components of vehicles.

(27) *Wood waste:* Includes sawdust, wood chips, boards, posts, and other materials generated by, or a waste by-product of, wood construction, demolition and wood-using manufacturing operations.

(28) *Yard waste:* Grass clippings, leaves, shrubbery trimmings, tree branches, and other natural debris from grass, plants, trees or shrubs.

(b) <u>*Solid waste containers*</u>

(1) *Degradable bag:* A bag made of paper with a chemical additive used for containing solid waste and which can be composted.

(2) *Plastic bag:* A disposable plastic sack of sufficient strength that will safely handle solid waste materials.

(3) *Recycling container:* A container specifically designed and/or intended for their usage as part of the city's recycling program.

(4) *Roll-off container:* A rectangular metal container designed so that they can be loaded and unloaded by a truck equipped with a tilt frame and hoist mechanism.

(5) *Solid waste container:*

a. Dumpster: A city owned metal container of various sizes for its usage as part of the city's commercial solid waste collection system.

b. Garbage can: A water tight galvanized metal or heavy duty plastic container with a capacity of not less than twenty (20) gallons nor more than forty-two (42) gallons, having two (2) handles on the sides thereof by which it may be lifted, with a tight fitting metal or plastic top with a handle, and so constructed as to permit the free discharge of its contents. The maximum loaded weight shall not exceed seventy (70) pounds.

c. Roll out waste container: A city owned container with a capacity of 48 or 96 gallons provided to each residence for the proper containment of solid waste.

(c) <u>*Solid waste collection system*</u>

(1) *Residential solid waste collection system:* A solid waste collection system utilizing manual labor and roll out waste containers to collect solid waste.

(2) *Commercial solid waste collection system:* A solid waste collection system utilizing city specified or city provided containers for collection by solid waste vehicles equipped with lifting devices.

(3) *Private waste collection system:* Waste collection operations owned and operated by private individuals or corporations. Examples: Contractors for hazardous waste, medical waste, swill, recyclable materials, etc.

(d) *Solid waste generating units*

(1) *Apartment.* A multiple family dwelling (see "Dwelling, Multiple).

(2) *Apartment building.* A residential building, other than a town-house, containing three or more dwelling units.

(3) *Church or place of religious worship.* An institution that people regularly attend to participate in or hold religious services, meetings, and other activities. The term "church" shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.

(4) *Commercial, industrial, or institutional establishments:* Includes any building, structure or premises not defined as a dwelling unit in this section. Multiple tenant structures or complexes such as shopping centers and malls are considered commercial and may have a specific billing policy as approved by the city manager.

(5) *Condominium:* A system of individual fee ownership of buildings or portions of buildings, combined with common ownership of buildings, portions of buildings, land and site improvements. See Horizontal Property Regime.

(6) *Dwelling or dwelling unit.* Any room or group of rooms, including manufactured housing units, located within a structure forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, eating, and sanitation by one family, but not including travel trailers, or house boats.

a. *Dwelling, attached or upper floor.* A dwelling having any portion of one or more walls in common with adjoining dwellings. Or a one-family dwelling that is attached to a non-residential building.

b. *Dwelling, detached.* A dwelling that is not attached to any other dwelling by any means.

c. *Dwelling, garden home/apartment.* See Dwelling, Multi-Family.

d. *Dwelling, multi-family.* A dwelling or complex designed for occupancy families living independently of each other, exclusive of auto or trailer courts or camps, hotels, or resort type hotels.

e. *Dwelling for resident security guard or caretaker.* A permanent dwelling for a security guard or caretaker employed on the premises of a site. A dwelling for a resident security guard or caretaker does not include Recreational Vehicles (RV) or manufactured homes.

f. *Dwelling, single family.* A dwelling designed to be occupied by one family.

g. *Dwelling, townhouse.* Two or more dwelling units attached at the side or sides, each unit of which has a separate outdoor entrance and is designed to be occupied and may be owned by one family.

h. *Dwelling, two-family.* A dwelling designed to be occupied by two families living independently of each other.

i. *Duplex.* (See Dwelling, Two-Family)

(7) *Horizontal property regime:* A system of individual fee ownership of buildings or portions of buildings, combined with common ownership of buildings, portions of buildings, land and site improvements.

(8) *Hotel.* A building or part thereof occupied as a more or less temporary abiding place for individuals in which the rooms are usually occupied singularly for hire and in which rooms no provisions for cooking is made, and in which building there is usually a kitchen and public dining room for the accommodation of the guests. This definition does not include an auto or trailer court or camp, sanatorium, hospital asylum, orphanage, or building where persons are housed under restraint.

(9) *Mall.* Any concentration of retail stores and/or service establishments that share customer-parking areas and are located within an enclosure having public walkways whereby a customer in one store or establishment may walk to another store or establishment without leaving the enclosure.

(10) *Mobile home.* A single family dwelling that is fabricated in an offsite facility prior to the enactment for the Federal Manufactured Home Construction and Safety Standards (24 CFR 3280), the same being no longer permitted in the City of Hot Springs, except as outlined in the Manufactured Home Ordinance.

(11) *Motel.* A motel or motor court is a business consisting of a building or group of buildings so arranged as to furnish overnight accommodations for transient guests.

(12) *Non-profit agencies:* Any entity organized or incorporated for purposes other than generating profit, such as a charitable, scientific or literary organization. Such entities include, but are not limited to, Goodwill Industries, Abilities Unlimited, and the Salvation Army.

(13) *Nursing home or convalescent home.* A structure designed or used for residential occupancy and providing limited medical or nursing care for occupants, but not including a hospital or mental health center.

(14) *Premises:* Land, buildings, or other structures, or parts thereof, where solid waste is stored or accumulated.

(15) *Public building.* A building owned by a governmental agency.

(16) *Public housing:* All buildings owned or operated by a governmental agency to provide living quarters to eligible residents.

(17) *Residence:* A building or part of a building containing one or more dwelling units or rooming units.

(18) *Restaurant.* A business establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in non-disposable containers, and where the customer consumes these foods while seated at tables or counters located within the building.

(19) *Restaurant, drive-in.* An establishment that delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not is also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off the premises.

(20) *Restaurant, fast food.* Any establishment whose principal business is the sale of foods, frozen desserts, or beverages in ready-to-consume individual servings, for consumption either within the restaurant building or for carry-out, and where either: 1) foods, frozen desserts, or beverages are usually served in paper, plastic, or other disposable containers, and where customers are not served their food, frozen desserts, or beverages by a restaurant employee at the same table or counter where the items are consumed; or 2) the establishment includes a drive-up or drive-through service facility or offers curb service.

(21) *Rooming unit:* Any room or group of rooms forming a single and habitable unit used for, or intended to be used for, living and sleeping, but not for cooking or eating purposes. "Rooming Unit" shall be construed as if followed by the words "or part thereof.

(22) *Schools:* All public and private buildings used for pre-school, elementary, junior high school, high school, specialized or higher education purposes.

(e) *Miscellaneous definitions.*

(1) *Alley:* A public or private right-of-way primarily designed to served as a secondary access to the side or rear of properties whose principal frontage is on some other street. The alley must have sufficient height and width clearance to allow safe passage of collection vehicle in order to be used as a collection site.

(2) *Beneficial fill:* Materials for use in filling low areas, improving drainage or stabilizing slopes or embankments. However, placement of beneficial types of material into a prepared hole may not be considered 'beneficial', but may constitute unpermitted disposal. Projects that incorporate beneficial fill material shall generally be completed within less than 60 days.

(3) *City:* The words "the city" or "this city" shall be construed as if the words "of Hot Springs" followed it and shall extend to and include its several officers, agents and employees.

(4) *City disposal facility:* A landfill, disposal site, disposal facility, transfer station or material recovery site or facility owned by the city or owned and operated by another person under contract with the city at which solid waste is dumped, abandoned, accepted or disposed of for final disposition by incineration, land filling, composting or any other method.

(5) *Class I landfill:* A solid waste facility that accepts non-hazardous household, commercial and industrial solid waste as defined herein; and small quantities of conditionally exempt hazardous wastes.

(6) *Class IV landfill:* A solid waste facility that accepts non-hazardous bulky, inert, non-putrescible solid wastes that do not degrade, or degrade very slowly. Class IV wastes include, but are not limited to, construction and demolition waste, appliances, furniture, stumps, limbs and other bulky wastes that are not normally collected with other household or commercial waste.

(7) *Composting:* The deliberate aerobic, biological decomposition of yard waste or other solid waste, resulting in a stable humus-like product.

(8) *Composting facility:* A facility that accepts yard waste or other solid waste for an aerobic, biological decomposition of such waste.

(9) *Disposal:* Abandoning, depositing, releasing, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any water. Disposal does not include composting.

(10) *Disposal facility:* Any place at which solid waste is dumped, abandoned, or accepted or disposed of for final disposition by incineration, land filling, or any other method.

(11) *Hauler:* A person engaged in the collection or transportation of solid waste for disposal, transfer or storage.

(12) *Illegal dumpsite:* Any place at which any waste defined in this ordinance is placed, deposited, abandoned, dumped or otherwise disposed of in a manner that is prohibited by this ordinance or other statutes, rules or regulations, and by which constitute one (1) or more of the following:

a. Attractive nuisance;
b. Public or private nuisance;
c. Fire, health, or safety hazard;
d. Potential sources of surface or ground water contamination; or
e. Other contamination that is hazardous to the public health or endangers the environment.

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

(14) *Incineration:* A controlled process by which solid waste is burned and changed into gases and residue produced which is relatively free of combustible materials.

(15) *Incinerator:* All enclosed devices intended or used for the reduction or destruction of solid waste by combustion.

(16) *Landfill:* A discrete area of land or an excavation that is permitted by ADEQ and receives solid waste for disposal, and that is not a land application unit, surface impoundment, infection well or waste pile, as those terms are defined under 40 C.F.R. 257.2, as amended.

(17) *Material recovery facility or MRF:* A facility engaged solely in the practices related to the management or diversion of source separated recoverable materials from the waste stream including storage, processing, marketing or reuse of recovered materials. Such term shall not include a solid waste recovery or handling facility provided; however, that any solid waste generated by such facility shall be subject to all applicable laws and regulations relating to such solid waste.

(18) *Material processing facility:* A composting facility, transfer station, solid waste material recovery facility or other facility that handles or processes solid waste, but does not otherwise provide for the ultimate disposal of the solid waste by land filling.

(19) *Person:* Any individual, corporation, company, firm, partnership, association, trust, state agency, government instrumentality or agency, institution, county, city, town, municipal authority or trust, venture or other legal entity, however organized.

(20) *Southwest Central Regional Solid Waste Management District:* A regional solid waste management district comprised of representatives from each separate governmental entity within said district charged with regulating all solid waste operations within its boundaries.

(21) *Responsible party:* An owner, operator, occupant, resident, leaser, manager, licensee or other person having control over a structure or parcel of land.

(22) *Right-of-way:* An area of land deeded, reserved by plat or otherwise accepted and maintained by the city, the county or the state for public use, including, but not limited to, a street, sidewalk, alley, crosswalk, railroad or utility service.

(23) *Solid waste fee:* A fee assessed by the city for any solid waste services provided by the city.

(24) *Transport:* The movement of wastes from the point of generation to any intermediate points, and finally to the point of ultimate storage or disposal.

(25) *Vehicle:* Every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

9-1-3. Compulsory service.

All residents and commercial establishments within the corporate limits of the city of Hot Springs, Arkansas, shall use the solid waste collection system and disposal facilities designated by the board of directors of the city of Hot Springs, Arkansas.

9-1-4. Powers and duties of the city manager.

(a) The city manager or his designee is empowered to implement and enforce the provisions of this chapter. The city manager or his designee is further authorized and directed to provide public solid waste disposal arrangements for solid waste originating within the city, so that the usual types and quantity of solid waste can be safely and expeditiously handled.

(b) The city manager or his designee may impose operational regulations on the disposal processes, such as determining character and kinds of solid waste authorized for disposal at a city disposal facility, routing of traffic, and designating time and location that activities may occur during the normal course of business at city facilities. Any such regulations shall be conspicuously displayed or shall be published as a part of this chapter. Nothing in this chapter is intended or shall be construed so as to infringe or supplant the authority of the Southwest Central Regional Solid Waste Management District, the ADEQ or the United States Environmental Protection Agency.

(c) Rules and regulations imposed by the city manager or his designee which are consistent with and supplementary to this ordinance may be changed or amended from time to time by the city manager or his designee and shall be considered standard operating procedure.

(d) The city manager or his designee may grant exceptions to any section of this chapter based on circumstances such as, but not limited to, physical limitations, terrain difficulties or right-of-way accessibility. All requests for variances will be considered on a case-by-case basis.

(e) Arrangement for collection of certain waste and recyclable materials such as swill, paper, cardboard, hazardous waste, medical waste, and other substances between individual customers and private contractors shall be first approved by the city manager or his designee.

9-1-5. Solid waste responsibility.

The responsible party of any dwelling unit or commercial establishment shall be responsible for the sanitary condition of said premises and for the proper storage, containment and placement for collection of all wastes as defined in this chapter.

9-1-6. Hauling solid waste.

(a) It shall be in violation of this chapter for any person engaged in the business of collecting, transporting or disposing of solid waste to haul such waste along any public street, alley or right-of-way in the city unless the materials are contained in vehicles or receptacles so constructed so as to prevent the waste from falling, leaking, blowing, dropping, spilling, or otherwise departing from the vehicle. Solid waste that could depart from a vehicle shall be transported in an enclosed vehicle or be completely covered. The solid waste shall be suitably enclosed or covered so as to prevent roadside littering, attraction of disease vectors or creation of other nuisances.

(b) Care shall be taken in the loading and transportation of solid waste so that none of the material is left either on private property or on the streets or alleys. The city recognizes that an occasional emergency or hot load may require the unloading of solid waste from a solid waste collection vehicle. Solid waste may be unloaded for emergency purposes if, all solid waste unloaded are recollected within the least practical time of the unloading, unless prohibited by emergency response personnel. The area must be litter free after the recollection, and the unloading shall, if possible, not obstruct traffic.

(c) All solid waste haulers shall be duly licensed in accordance with Ark. Code Ann. § 8-6-721, as may be amended, and ADEQ Regulation 22, as amended. Having been issued a license does not constitute authority for collection within the city limits of the city of Hot Springs.

9-1-7. Illegal disposal of solid waste.

It shall be a violation of this chapter for any person to illegally dispose, or cause to be illegally disposed, any wastes as defined in this chapter.

(a) In or upon any public or private highway or road, including any portion of the right-of-way thereof;

(b) In or upon any private property into or upon which the public is admitted by easement or license, or any private property;

(c) In or upon any public park, or other public property, other than the property designated or set aside for waste disposal by the governing board or body having charge thereof; or

(d) Upon any property for which a waste disposal permit has not been issued by the ADEQ.

9-1-8. Animal waste.

Animal waste shall be disposed of in the following manner:

(a) Animal waste from small animals or pets shall be placed in a plastic bag, or double bagged if necessary, and then placed in an approved solid waste container.

(b) Animal waste from livestock, such as horses, cattle, sheep, goats, pigs and other livestock, shall not be collected with any other solid waste.

9-1-9. Composting of solid waste.

(a) All composting activities shall be conducted in accordance with ADEQ Regulation 22, as amended. Small composting operations conducted by a person treating yard waste, organic wastes or animal waste taken solely from that person's personal residence or property shall be conducted in a manner not to constitute a public or private nuisance to other persons or property owners either adjacent to or in the vicinity of the composting operation.

(b) Animal waste or garbage shall be covered with a layer of soil of sufficient quantity to avoid being a nuisance.

9-1-10. Unobstructed access.

(a) It is the duty of the responsible party to trim trees, brush and shrubbery on their property and in the adjacent right-of-way when such vegetation interferes with the movement of pedestrians or vehicles, specifically solid waste collection vehicles.

(b) There shall be no street obstruction in any manner of a solid waste container placed out for collection, nor shall there be any obstruction between the solid waste container and the street. No refuse will be collected if containers are located inside buildings, inside fences, or otherwise inaccessible. On properties that have such barriers, the owners or occupants shall place the solid waste container in an acceptable location outside the barrier by six o'clock a.m. on the mornings scheduled for collection.

(c) The sanitation department shall receive notice of any excavation, construction, repairs or utility work that will necessitate the closure of any street or alley, with dates and locations of closure, at least twenty-four (24) hours prior to commencing work. In emergency situations, the sanitation department shall be notified the next working day of locations and length of expected closure.

9-1-11. Building permits and construction requirements for commercial, industrial, and institutional solid waste sites.

The requirements of this section shall apply to any new commercial construction. Remodeling or reconstruction may require compliance with the listed requirements if: there is a change in occupancy type as defined by the such Building Code as may now or hereinafter be adopted by the Board of Directors, the valuation of the improvements is in excess of 15% of the building valuation, or the solid waste disposal requirements of the new use of the property necessitate a change in the container size or location.

(a) No person individually or any public utility may install any type of overhead power lines, cables or wires within thirty (30) feet overhead and fifteen (15) feet around any dumpster pad or any dumpster service location.

(b) Location of concrete dumpster pad(s) shall be shown on the building site plan and submitted as part of the building permit application. Approval of site selected, provision of sufficient turn around space, and ease of entry and exit to property will be required before building permit is approved and issued.

(c) Dumpster pads and approach areas shall be constructed in accordance with the following requirements and a certificate of occupancy shall not be issued until such requirements are made.

(1) A concrete pad, 12' wide by 20' deep shall be provided for each city furnished commercial container. If more than one container is required, the pad must be 12' wide by 20' deep for each container (e.g., two containers would require a pad 24' wide by 20' deep). The minimum thickness of said pad(s) shall be six inches and shall be reinforced with #4 rebar spaced on 12" centers. The pad shall be level with the surrounding surface, not formed and poured on top of existing surface.

(2) The approach and loading area in front of each container site pad shall be 50' in length by 12' in width. If more than one container is used, the approach and loading area in front of each container pad shall be 50' in length by 12' in width (e.g., two pads would require an approach area 24' wide by 50' long).

(3) If the use of an enclosure is desired, it must meet the following minimum requirements:

a. Inside measurements must be at least 12' wide x 10' deep (pad must still be 12' x 20').

b. Gate and/or entrance must allow for a 12' wide clearance when gates are in the open position.

c. Pins to hold gates in place when closed should be 36" long and have a corresponding hole in ground surface to insure stop at both closed and full open position.

d. Enclosures are designed for use as a dumpster pad only and do not allow for grease bins, storage, or wash out areas. Sufficient space in addition to the required dumpster pad needs to be added to accommodate such additional items.

(d) The intent of this section is to provide safe and sanitary locations for solid waste container sites. In this regard, alternate designs may be considered and approved by the Director of Sanitation or his designee provided the basic principles established herein are met.

9-1-12. Commercial, industrial and institutional site requirements.

(a) Each commercial, industrial and institutional establishment shall have on location storage containers of sufficient capacity to contain all solid waste between collection cycles. Commercial containers may be emptied as required but not less than one or more than six days per week. (Seven-day service is available during race meet.) Containers shall be constructed of durable, non-absorbent, non-combustible material with suitable watertight covers. Covers shall be kept closed except when containers are being loaded or emptied. All containers shall be maintained in a sanitary condition. Containers shall not be stored or maintained in such a manner as to constitute a public nuisance, public health or safety hazard or environmental hazard. The containers shall be placed in such a manner as to minimize visibility from streets or pedestrian walkways.

(b) Property owner is responsible to insure that passageway, turn around area and loading areas in front of container pads are durable enough to support the weight of trucks (as much as 65,000 lbs. per truck), when commercial containers are used. Failure to do so, resulting in damage to the surfacing material or base material is the responsibility of the property owner. The City of Hot Springs and the Sanitation department will in no way be considered liable.

9-1-13. Depositing solid waste other than in authorized containers or facilities.

It shall be unlawful for any person to keep solid waste unless the waste is kept as prescribed by this chapter and ADEQ Regulation 22, as may be amended. No person or entity shall be permitted to bury, dump or deposit, or cause to be buried, dumped or deposited, solid waste of any kind whatsoever upon any street, alley or real property for which a permit has not been issued by the ADEQ. Persons, businesses, firms or corporations hauling and disposing of construction, demolition or other solid waste shall dispose of the solid waste in a legally permitted solid waste facility.

9-1-14. Use of solid waste container(s) assigned to another person.

It shall be a violation of this ordinance for any person to utilize a solid waste container(s) assigned to another person for disposal of solid waste without the other person's permission.

9-1-15. Disturbing contents of containers.

It shall be a violation of this ordinance for:

(a) Any person not authorized by the city to utilize, for other than its intended purpose, any container provided by the city.

(b) Any person to remove, collect, or disturb any solid waste stored in containers placed out for collection by the city or its designee.

(c) Any person to scatter, litter, drop, deposit, discard or otherwise dispose of solid waste upon any private or public property.

9-1-16. Solid waste containment and disposal requirements.

(a) Explosives of any kind, such as small arms ammunition, black powder, blasting agents, compressed gas cylinders or any kind of flammable materials shall not be placed in any solid waste container.

(b) Construction and demolition waste resulting from the construction, reconstruction, demolition, remodeling or repair of premises will not be collected with other solid waste. Such debris and solid waste requires special arrangements for removal and proper disposal.

(c) Tires, batteries, motor oil, or any flammable or hazardous materials will not be collected by the city. Such materials shall not be placed with other solid waste and is the responsibility of the responsible party for removal and proper disposal.

(d) It is the responsible party's duty to keep the area around the solid waste collection site continuously free and clear of all debris. If a property has alley collection service, then the area includes that portion of the alley adjacent to the property and is in addition to any other responsibilities the property owner may have with respect to alleys.

(e) All boxes and large pieces of cardboard should be broken down or cut up prior to placement in solid waste containers.

(f) No bulk waste shall be placed in a solid waste container.

(g) No medical waste, infectious waste, sharps, needles or lancets will be collected by the city.

(h) Putrescible solid waste shall be drained of all liquids and placed in waterproof bags as necessary to contain waste securely and tied before being placed in solid waste containers.

(i) The lids or covers of any solid waste container shall be kept secure in such a manner so as to prevent intrusion of moisture, insects, rodents and the littering or scattering of solid waste.

(j) Any solid waste that is placed in a container for disposal shall be contained in such a manner that it will not blow out or away when being dumped. Special attention should be paid to Styrofoam or similar packing materials (peanuts) that are susceptible to being blown about.

9-1-17. Commercial solid waste collection system.

(a) Solid waste will be collected by an automated, mechanical system for any commercial service location, except as designated by the city manager or his designee. Where it is impractical for city collection vehicles to operate due to terrain or other conditions, an alternate collection method will be provided.

(b) When containers are required, only city provided containers shall be used for collection of solid waste. Containers may be used only for the storage of solid waste materials collected by the city. Only items placed within the container will be collected. Additional cans, or bags separate from the container, will not be collected. All solid waste shall be placed in heavy-duty plastic bags and then placed in approved garbage can as defined in this ordinance.

(c) Container sizing and pick up frequency shall be established by the city manager or his designee.

(d) All city provided containers shall remain the property of the city. The city is responsible for repairs to city owned containers when damage is a result of proper disposal of solid waste pursuant to this ordinance.

9-1-18. Residential solid waste collection system.

(a) Except as specified by the city manager or his designee, the semi-automated solid waste collection system shall be the collection system utilized for the collection of household waste.

(b) All solid waste shall be placed in a heavy-duty plastic bag that does not exceed forty (40) pounds, including contents, and placed in city provided roll out waste containers.

(c) Roll out waste containers must be placed within three feet of the street edge for collection (curbside). Containers must be placed at the street. Alley collection will not take place for residential collection, unless curbside collection is not feasible or impractical due to terrain or other conditions.

(d) Containers shall not be placed out for collection sooner than 6:00 p.m. the day preceding the scheduled normal collection day, or no later than 6:00 a.m. the day of collection. The containers shall be removed no later than 6:00 p.m. the day of collection.

(e) Curbside (collection site) enclosures of any kind shall not be permitted.

(f) Containers shall be stored between collection so as not to impede pedestrian or vehicular traffic along sidewalks, alleys, streets, and other right-of-ways.

(g) The responsible party is responsible for maintaining the sanitary condition of solid waste containers.

(h) Upon request, special service may be provided to persons with disabilities residing in a single dwelling unit receiving city solid waste collection service. If approved, this service will be provided at no additional charge. The city manager or his designee shall verify that an individual(s) meets the criteria for this service. In this regard, the requester may be required to produce reasonable evidence of disability. This service does not include collection personnel entering the dwelling to provide such service.

9-1-19. Yard waste collection.

(a) All loose yard waste including, but not limited to, grass, weeds, leaves and vegetation clippings must be bagged and securely tied or bundled before being placed at the designated collection site.

(b) Limbs, branches and other vegetation will be collected separately from household waste, provided individual pieces are no longer than three feet in length, are three inches or smaller in diameter, and weigh no more than seventy (70) pounds.

(c) All yard waste materials shall be placed within five (5) feet of the street edge for collection.

(d) Yard waste shall be placed out for collection no sooner than 6:00 p.m. the day preceding the scheduled collection day and no later than 6:00 a.m. the day of collection.

(e) No yard waste shall be placed so as to impede pedestrian or vehicular traffic along sidewalks, alleys, streets and other public right-of-ways.

(f) Yard waste collection is limited to fifty (50) bags per collection. Any residence with more than fifty (50) bags of yard waste must direct haul to the compost.

9-1-20. Clean attractive property service.

A special service, known as CAPS (Clean, Attractive, Property Service), shall be provided for the collection and disposal of old appliances, furniture, large amounts of brush and bulky items which can be disposed of in a Class IV landfill or be composted. CAPS service shall be provided in accordance with the following requirements:

(a) Customers must call the sanitation department to request CAPS during business hours and provide their name, address, phone number and what item(s) are to be collected.

(b) Collection will be scheduled on a first-come, first-served basis. Only scheduled collections will be made. Bulky items placed curbside for collection without a record of scheduled collection will be tagged with a notice to call the sanitation office to schedule removal. If a CAPS collection has not been scheduled within seven (7) days of said notice, the items will be collected by the sanitation department and the resident will be charged in accordance with the applicable rate schedule as adopted by paragraph 24(d)(1) hereof. (Ord. No. 5608, §1, 11-5-07)

(c) All items must be placed curbside (not in the street). The item must be accessible to the collection truck and not blocked by any other vehicles. There must be at least 20 feet overhead clearance. All items must be separated and placed as instructed.

(d) Items should not be placed curbside until the day prior to scheduled collection date but not later than 6:00 a.m. the day of collection.

(e) Residential customers are allowed two (2) collections per calendar year without additional charge, provided the volume is less than one (1) ton per collection. Additional collections or any in excess of a ton will be provided on a fee basis, at the established rate for such service. (Ord. No. 5644, §1, 4-7-08)

(f) Service to commercial customers will be provided on a fee basis subject to capacity and availability of CAPS collection equipment.

(g) No solid waste items presently collected by regular sanitation crews can be mixed with items for CAPS collection. Should items be mixed no service (regular or CAPS) will be provided until the items are properly separated. Items such as old tires, vehicles batteries or combustible items will not be accepted.

9-1-21. Hazardous waste.

Pursuant to ADEQ Regulation 22, Section 22.701 (b), as amended, materials known to be hazardous waste are prohibited from collection by the city.

9-1-22. Inspection of containers.

Provision shall be made for regular inspections of solid waste containers by the city manager or his designee to insure compliance with this ordinance with reference to containment of solid waste. The city manager or his designee shall issue a notice of violation, to the responsible party of the property upon which violations occur.

9-1-23. Issuance of citations.

The city may issue a notice of violation to any person, business, firm, corporation or governmental agency violating any provisions of this ordinance. If the violation has not been corrected within the specified time period, a citation may be issued.

9-1-24. Schedule of rates and charges.

Solid Waste Rate Schedule A-1

For bills rendered between February 1, 2010 and December 31, 2010

(a) Commercial sanitation rates.

(1) Customer furnished containers (32-gallon cans):

a. *Basic rate:* $20.50 per month (maximum two (2) 32-gallon cans per collection).

b. *Additional service:* $5.75 per month for each additional waste container.

This service is based on once per week collection. Customers serviced by this method will be converted to a commercial dumpster or roll out waste container as soon as practical or as required by the sanitation department.

(2) City furnished 96-gallon roll out waste container:

a. *Basic rate:* 96-gallon roll out container $19.00 per month.

b. *Additional service:* $9.50 per month for each additional roll out waste container.

c. *Lost/Stolen containers:* Lost or stolen roll out containers may be replaced at the expense of the city one time; the customer will be charged $50.00 for each additional occurrence. Lost or stolen containers shall be reported to the police department.

d. *Damaged containers:* A charge of $50.00 will be assessed for roll out containers damaged due to the negligence; however, any damage caused by the city or city's equipment will be at the expense of the city.

(3) City furnished dumpsters:

Pickups per week and rates per month							
Cu. Yd. Capacity	1	2	3	4	5	6	7
1	$45.70	70.95	108.05	145.70	182.15	219.65	256.65
2	66.55	111.80	170.05	229.70	286.50	344.00	402.55
3	87.30	153.80	236.55	319.50	402.55	444.45	485.30
4	108.05	195.30	298.20	402.55	505.30	609.60	704.45
6	145.75	256.65	372.95	489.10	605.20	711.90	818.20
8	162.10	290.15	430.55	568.25	689.30	809.80	972.00

(4) Extra service (dumpsters only) rate per occurrence:

Container Size	*Rate A**	*Rate B***
1 yd.	$15.10	$30.10
2 yd.	20.10	40.15
3 yd.	22.90	45.70
4 yd.	30.10	60.50
6 yd.	39.70	79.35
8 yd.	44.05	88.15

* Rate A: Applicable if city truck is on site or for next day service.
** Rate B: Applicable for same day service when city truck is not on site.

(5) Shared bin rates will be based on an equal share basis or volume of waste generated by customers sharing container. Shared bins will only be available to customers in unique situations where it is unfeasible to place a container for each customer.

(6) Direct customer disposal: $2.25 per hundred pounds of solid waste brought to city's sanitation facility by commercial customer for disposal; provided, however, that direct disposal rates for high volume users (e.g., other governments, commercial haulers, etc.) shall be negotiated by city staff on a case-by-case basis and a rate established which meets or exceeds the city's disposal costs. There shall be a minimum charge of $15.00.

(b) Residential sanitation rates.

(1) *Basic rate:*

96-gallon roll out container $19.00 per month per residence.
48-gallon roll out container $12.00 per month per residence.

(2) *Additional service:* $9.50 per month per residence for each additional roll out waste container.

(3) *Lost/Stolen containers:* Lost or stolen roll out containers may be replaced at the expense of the city one time; the resident will be charged $50.00 for each additional occurrence. Lost or stolen containers shall be reported to the police department.

(4) *Damaged containers:* A charge of $50.00 will be assessed for roll out containers damaged due to the negligence; however, any damage caused by the city or city's equipment will be at the expense of the city.

(5) *Direct customer disposal:* $2.25 per hundred pounds of solid waste brought to the sanitation facility by individual customers for disposal. There shall be a minimum charge of $15.00.

(c) Roll-off containers.

(1) *Delivery:* $40.00 per container

(2) *Daily rental fee:* $6.00 per day

(3) *Haul rate*: $410 per haul, includes disposal.

(4) Rates are based on eight tons or less, net weight. Over eight tons, additional charge of $45.00 per ton. Additional charges may apply if Class I and Class IV waste are not segregated and are mixed in same container. The sort fees will be determined by the sanitation director on a case-by-case basis and shall be based on labor used to sort waste.

A service agreement/acknowledgment and initial deposit equal to the anticipated use base rate shall be executed prior to the commencement of the service. The deposit will be applied toward the final bill.

(d) C.A.P.S. (Clean Attractive Property Service) rates:

(1) *Residential rates:*

a. Each residence is afforded two collections at no charge. A $20.00 fee will apply for each collection thereafter.

b. A maximum of one ton per collection. Additional charges may apply for volumes in excess of one ton; this fee will be based on $2.25 per one hundred pounds in excess of one ton.

(2) *Commercial rates:*

a. Charge per ton - $40.00

b. Charge per item - $15.00 for first item
5.00 for each additional item

c. Charge flat rate - A $20.00 fee will be charged for brush or small miscellaneous materials. Additional charges may apply for volumes in excess of one ton. This additional fee will be based on $2.25 per one hundred pounds in excess of one ton.

(3) *Refrigerant recovery:* There will be a charge of $20.00 per item that contains a compressor. This includes disposal of item.

(e) Special event/temporary container rates:

(1) *Large container service:*

Size of bin	Delivery fee	Dump fee (Rate A)	Dump Fee (Rate B)
2 yd.	$50.00	$20.10	$40.15
4 yd.	50.00	30.10	60.50
6 yd.	50.00	39.70	79.35
8 yd.	50.00	44.05	88.15

Rate A: Applies when request is called into sanitation office, a day in advance or with truck on site.
Rate B: Applies when same day service is requested or when truck is not on site (unscheduled service).
After hours: Applies when service is requested after 11:00 a.m., minimum charge of $60.00, and $30.00 per hour for any time exceeding two hours.

(2) *Small container service*: Small containers consist of 55-gallon drum or city logo corrugated containers. Rates include delivery, container, liner, collection and disposal.

Rate: $35.00 for initial container, then $5.00 for each additional container. Additional collection charged at $5.00 per container with a minimum of $35.00. After hour service will be charged at the rates set forth for after hour service.

(3) Temporary containers shall be limited to a 90-day duration.

(f) Monthly charges for 55-gallon can service in city-owned public parks:

Number of Pickups per Week							
No. of 55 Gallon Cans	1	2	3	4	5	6	7
1	$8.95	17.85	26.65	35.60	44.50	53.50	75.30
2	17.25	34.45	51.60	68.75	86.00	103.15	146.10
3	24.85	49.75	74.60	99.50	124.35	149.20	212.80
4	31.95	63.80	95.85	127.75	159.65	191.50	275.10
5	38.40	76.75	115.15	153.50	191.85	230.30	333.10
6	44.20	88.40	132.65	176.80	221.05	265.20	386.80
7	49.40	98.85	148.30	197.75	247.15	296.50	436.25
8	54.00	108.05	162.15	216.10	270.15	324.20	467.40
9	58.00	115.95	174.05	232.10	290.15	348.15	522.20
10	61.40	122.75	184.15	245.55	306.95	368.30	558.75

(g) Miscellaneous fees:

(1) *After hours:* Applies when service is requested after 11:00 a.m., minimum charge of $60.00, and $30.00 per hour for any time exceeding two hours.

(2) *Container relocation:* $40.00 per container

(3) *Container change out:* First change out at no charge, $40.00 per change out thereafter

(4) *Container casters:* $35.00 per caster

(5) *Locking lids:* $85.00 per container

(h) Compactor containers and specialized services. The City Manager or the Sanitation Director is authorized to determine rates for compactor containers and other specialized service needs on a case-by-case basis. Such rate determination shall only be made when the established rate schedules are clearly not applicable to the requested service due to a customer's special equipment / compactors. Such rate determination shall consider the city's actual hauling / handling costs, the customer's compaction ratio, cubic yard capacity and the established rate schedules for other services.

(i) Collection and rate policy. Where it is impractical for city collection vehicles to operate due to terrain or other conditions, an alternate collection method will be provided. The City Manager or the Sanitation Director is authorized to promulgate such rate policies, procedures and customer agreements as necessary for the provision of compactors or other specialized solid waste collection services.

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(j) Fuel surcharge. A fuel surcharge shall be added to each solid waste customer based upon the following percentages of the total solid waste charges:

Average Fuel Price	**Surcharge Percentage**
less than $2.39	0%
$2.39 - $2.77	1%
$2.78 - $3.13	2%
$3.14 - $3.51	3%
$3.52 - $3.90	4%
$3.91 - $4.28	5%
$4.29 - $4.64	6%
$4.65 - $5.02	7%

Application of the fuel surcharge for any given month shall be determined at the first of that month based on the previous four-week average Thursday fuel price. Whenever such previous four-week average Thursday fuel price falls within a fuel-price range as stated above, the corresponding percentage shall be added to the current month's solid waste charges. For purposes of this section, the Oil Price Information Service (OPIS) newsletter average "Thursday" price for dyed diesel fuel regular at the Little Rock, Arkansas, terminal shall be used to calculate the four-week average Thursday fuel price

Solid Waste Rate Schedule A-2

For bills rendered between January 1, 2016 and December 31, 2016

(a) Commercial sanitation rates.

(1) Customer furnished containers (32-gallon cans):

a. *Basic rate:* $20.50 per month (maximum two (2) 32-gallon cans per collection)

b. *Additional service:* $5.75 per month for each additional waste container.

This service is based on once per week collection. Customers serviced by this method will be converted to a commercial dumpster or roll out waste container as soon as practical or as required by the sanitation department.

(2) City furnished 96-gallon roll out waste container:

a. *Basic rate:* 96-gallon roll out container $19.00 per month

b. *Additional service:* $9.50 per month for each additional roll out waste container.

c. *Lost/Stolen containers:* Lost or stolen roll out containers may be replaced at the expense of the city one time; the customer will be charged $50.00 for each additional occurrence. Lost or stolen containers shall be reported to the police department.

d. *Damaged containers:* A charge of $50.00 will be assessed for roll out containers damaged due to negligence; however, any damage caused by the city or city's equipment will be at the expense of the city.

(3) City furnished dumpsters:

Pickups per week and rate per month							
Cu. Yd. Capacity	1	2	3	4	5	6	7
1	$46.60	72.35	110.20	148.60	185.80	224.05	261.80
2	67.90	114.05	173.45	234.30	292.25	350.90	410.60
3	89.05	156.90	241.30	325.90	410.60	453.35	495.00
4	110.20	199.20	304.15	410.60	515.40	621.80	718.55
6	148.65	261.80	380.40	498.90	617.30	726.15	834.55
8	165.35	295.95	439.15	579.60	703.10	826.00	991.45

(4) Extra service (dumpsters only) rate per occurrence:

Container Size	*Rate A**	*Rate B***
1 yd.	$15.40	$30.70
2 yd.	20.50	40.95
3 yd.	23.35	46.60
4 yd.	30.70	61.70
6 yd.	40.50	80.95
8 yd.	44.95	89.90

* Rate A: Applicable if city truck is on site or for next day service.
** Rate B: Applicable for same day service when city truck is not on site.

(5) Shared bin rates will be based on an equal share basis or volume of waste generated by customers sharing container. Shared bins will only be available to customers in unique situations where it is unfeasible to place a container for each customer.

(6) Direct customer disposal: $2.25 per hundred pounds of solid waste brought to city's sanitation facility by commercial customer for disposal; provided, however, that direct disposal rates for high volume users (e.g., other governments, commercial haulers, etc.) shall be negotiated by city staff on a case-by-case basis and a rate established which meets or exceeds the city's disposal costs. There shall be a minimum charge of $15.00.

(b) Residential sanitation rates.

(1) *Basic rate:*

96-gallon roll out container $19.00 per month per residence.
48-gallon roll out container $12.00 per month per residence.

(2) *Additional service:* $9.50 per month per residence for each additional roll out waste container.

(3) *Lost/Stolen containers:* Lost or stolen roll out containers may be replaced at the expense of the city one time; the resident will be charged $50.00 for each additional occurrence. Lost or stolen containers shall be reported to the police department.

(4) *Damaged containers:* A charge of $50.00 will be assessed for roll out containers damaged due to negligence; however, any damage caused by the city or city's equipment will be at the expense of the city.

(5) *Direct customer disposal:* $2.25 per hundred pounds of solid waste brought to the sanitation facility by individual customers for disposal. There shall be a minimum charge of $15.00.

(c) Roll-off containers.

(1) *Delivery:* $40.00 per container

(2) *Daily rental fee:* $6.00 per day

(3) *Haul rate*: $410 per haul, includes disposal.

(4) Rates are based on eight tons or less, net weight. Over eight tons, additional charge of $45.00 per ton. Additional charges may apply if Class I and Class IV waste are not segregated and are mixed in same container. The sort fees will be determined by the sanitation director on a case-by-case basis and shall be based on labor used to sort waste.

A service agreement/acknowledgment and initial deposit equal to the anticipated use base rate shall be executed prior to the commencement of the service. The deposit will be applied toward the final bill.

(d) C.A.P.S. (Clean Attractive Property Service) rates:

(1) *Residential rates:*

a. Each residence is afforded two collection at no charge. A $20.00 fee will apply for each collection thereafter.

b. A maximum of one ton per collection. Additional charges may apply for volumes in excess of one ton; this fee will be based on $2.25 per one hundred pounds in excess of one ton.

(2) *Commercial rates:*

a. Charge per ton - $40.00

b. Charge per item - $15.00 for first item
5.00 for each additional item

c. Charge flat rate - A $20.00 fee will be charged for brush or small miscellaneous materials. Additional charges may apply for volumes in excess of one ton. This additional fee will be based on $2.25 per one hundred pounds in excess of one ton.

(3) *Refrigerant recovery:* There will be a charge of $20.00 per item that contains a compressor. This includes disposal of item.

(e) Special event/ Temporary container rates:

(1) *Large container service:*

Size of bin	Delivery fee	Dump fee (Rate A)	Dump fee (Rate B)
2 yd.	$50.00	$20.50	$40.95
4 yd.	50.00	30.70	61.70
6 yd.	50.00	40.50	80.95
8 yd.	50.00	44.95	89.90

Rate A: Applies when request is called into sanitation office, a day in advance or with truck on site.

Rate B: Applies when same day service is requested or when truck is not on site (unscheduled service).

After hours: Applies when service is requested after 11:00 a.m., minimum charge of $60.00, and $30.00 per hour for any time exceeding two hours.

(2) *Small container service*: Small containers consist of 55-gallon drum or city logo corrugated containers. Rates include delivery, container, liner, collection and disposal.

Rate: $35.00 for initial container, then $5.00 for each additional container. Additional collection charged at $5.00 per container with a minimum of $35.00. After hour service will be charged at the rates set forth for after hour service.

(3) Temporary containers shall be limited to a 90-day duration.

(f) Monthly charges for 55-gallon can service in city-owned public parks:

Number of Pickups per Week							
No. of 55 Gallon Cans	1	2	3	4	5	6	7
1	$9.15	18.20	27.20	36.30	45.40	54.55	76.80
2	17.60	35.15	52.65	70.15	87.70	105.20	149.00
3	25.35	50.75	76.10	101.50	126.85	152.20	217.05
4	32.59	65.10	97.75	130.30	162.85	195.35	280.60
5	39.17	78.30	117.45	156.55	195.70	234.90	339.75
6	45.10	90.15	135.30	180.35	225.45	270.50	394.55
7	50.40	100.85	151.25	201.70	252.10	302.45	445.00
8	55.10	110.20	165.40	220.40	275.55	330.70	476.75
9	59.15	118.25	177.50	236.75	295.95	355.10	532.65
10	62.65	125.20	187.85	250.45	313.10	375.65	569.95

(g) Miscellaneous fees:

(1) *After hours:* Applies when service is requested after 11:00 a.m., minimum charge of $60.00, and $30.00 per hour for any time exceeding two hours.

(2) *Container relocation:* $40.00 per container

(3) *Container change out:* First change out at no charge, $40.00 per change out thereafter

(4) *Container casters:* $35.00 per caster

(5) *Locking lids:* $85.00 per container

(h) Compactor containers and specialized services. The City Manager or the Sanitation Director is authorized to determine rates for compactor containers and other specialized service needs on a case-by-case basis. Such rate determination shall only be made when the established rate schedules are clearly not applicable to the requested service due to a customer's special equipment / compactors. Such rate determination shall consider the city's actual hauling / handling costs, the customer's compaction ratio, cubic yard capacity and the established rate schedules for other services.

(i) Collection and rate policy. Where it is impractical for city collection vehicles to operate due to terrain or other conditions, an alternate collection method will be provided. The City Manager or the Sanitation Director is authorized to promulgate such rate policies, procedures and customer agreements as necessary for the provision of compactors or other specialized solid waste collection services.

(j) Fuel Surcharge. A fuel surcharge shall be added to each solid waste customer based upon the following percentages of the total solid waste charges:

Average Fuel Price	**Surcharge Percentage**
less than $2.39	0%
$2.39 - $2.77	1%
$2.78 - $3.13	2%
$3.14 - $3.51	3%
$3.52 - $3.90	4%
$3.91 - $4.28	5%
$4.29 - $4.64	6%
$4.65 - $5.02	7%

Application of the fuel surcharge for any given month shall be determined at the first of that month based on the previous four-week average Thursday fuel price. Whenever such previous four-week average Thursday fuel price falls within a fuel-price range as stated above, the corresponding percentage shall be added to the current month's solid waste charges. For purposes of this section, the Oil Price Information Service (OPIS) newsletter average "Thursday" price for dyed diesel fuel regular at the Little Rock, Arkansas, terminal shall be used to calculate the four-week average Thursday fuel price.

Solid Waste Rate Schedule A-3

For bills rendered between January 1, 2017 and December 31, 2017

(a) Commercial sanitation rates.

(1) Customer furnished containers (32-gallon cans):

a. *Basic rate:* $20.50 per month (maximum two (2) 32-gallon cans per collection)

b. *Additional service:* $5.75 per month for each additional waste container.

This service is based on once per week collection. Customers serviced by this method will be converted to a commercial dumpster or roll out waste container as soon as practical or as required by the sanitation department.

(2) City furnished 96-gallon roll out waste container:

a. *Basic rate:* 96-gallon roll out container $19.00 per month

b. *Additional service:* $9.50 per month for each additional roll out waste container

c. *Lost/Stolen containers:* Lost or stolen roll out containers may be replaced at the expense of the city one time; the customer will be charged $50.00 for each additional occurrence. Lost or stolen containers shall be reported to the police department.

d. *Damaged containers:* A charge of $50.00 will be assessed for roll out containers damaged due to negligence; however, any damage caused by the city or city's equipment will be at the expense of the city.

(3) City furnished dumpsters:

Pickups per week and rate per month							
Cu. Yd. Capacity	1	2	3	4	5	6	7
1	$47.55	73.80	112.40	151.55	189.50	228.55	267.05
2	69.25	116.35	176.90	239.00	298.10	357.90	418.80
3	90.85	160.05	246.15	332.40	418.80	462.40	504.90
4	112.40	203.20	310.25	418.80	525.70	634.25	732.90
6	151.60	267.05	388.00	508.90	629.65	740.65	851.25
8	168.65	301.85	447.95	591.20	717.15	842.50	1011.30

(4) Extra service (dumpsters only) rate per occurrence:

Container Size	*Rate A**	*Rate B***
1 yd.	$15.70	$31.30
2 yd.	20.90	41.75
3 yd.	23.80	47.55
4 yd.	31.30	62.95
6 yd.	41.30	82.50
8 yd.	45.85	91.70

* Rate A: Applicable if city truck is on site or for next day service.
** Rate B: Applicable for same day service when city truck is not on site.

(5) Shared bin rates will be based on an equal share basis or volume of waste generated by customers sharing container. Shared bins will only be available to customers in unique situations where it is unfeasible to place a container for each customer.

(6) Direct customer disposal: $2.25 per hundred pounds of solid waste brought to city's sanitation facility by commercial customer for disposal; provided, however, that direct disposal rates for high volume users (e.g., other governments, commercial haulers, etc.) shall be negotiated by city staff on a case-by-case basis and a rate established which meets or exceeds the city’s disposal costs. There shall be a minimum charge of $15.00.

(b) Residential sanitation rates.

(1) *Basic rate:*
96-gallon roll out container $19.00 per month per residence.
48-gallon roll out container $12.00 per month per residence.

(2) *Additional service:* $9.50 per month per residence for each additional roll out waste container.

(3) *Lost/Stolen containers:* Lost or stolen roll out containers may be replaced at the expense of the city one time; the resident will be charged $50.00 for each additional occurrence. Lost or stolen containers shall be reported to the police department.

(4) *Damaged containers:* A charge of $50.00 will be assessed for roll out containers damaged due to the negligence; however, any damage caused by the city or city's equipment will be at the expense of the city.

(5) *Direct customer disposal:* $2.25 per hundred pounds of solid waste brought to the sanitation facility by individual customers for disposal. There shall be a minimum charge of $15.00.

(c) Roll-off containers.

(1) *Delivery:* $40.00 per container

(2) *Daily rental fee:* $6.00 per day

(3) *Haul rate*: $410 per haul, includes disposal:

(4) Rates are based on eight tons or less, net weight. Over eight tons, additional charge of $45.00 per ton. Additional charges may apply if Class I and Class IV waste are not segregated and are mixed in same container. The sort fees will be determined by the sanitation director on a case-by-case basis and shall be based on labor used to sort waste.

A service agreement/acknowledgment and initial deposit equal to the anticipated use base rate shall be executed prior to the commencement of the service. The deposit will be applied toward the final bill.

(d) C.A.P.S. (Clean Attractive Property Service) rates:

(1) *Residential rates:*

a. Each residence is afforded two collections at no charge. A $20.00 fee will apply for each collection thereafter.

b. A maximum of one ton per collection. Additional charges may apply for volumes in excess of one ton; this fee will be based on $2.25 per one hundred pounds in excess of one ton.

(2) *Commercial rates:*

a. Charge per ton - $40.00

b. Charge per item - $15.00 for first item
5.00 for each additional item

c. Charge flat rate - A $20.00 fee will be charged for brush or small miscellaneous materials. Additional charges may apply for volumes in excess of one ton. This additional fee will be based on $2.25 per one hundred pounds in excess of one ton.

(3) *Refrigerant recovery:* There will be a charge of $20.00 per item that contains a compressor. This includes disposal of item.

(e) Special event/Temporary container rates:

(1) *Large container service:*

Size of bin	Delivery fee	Dump fee (Rate A)	Dump fee (Rate B)
2 yd.	$50.00	$20.90	$41.75
4 yd.	50.00	31.30	62.95
6 yd.	50.00	41.30	82.50
8 yd.	50.00	45.85	91.70

Rate A: Applies when request is called into sanitation office, a day in advance or with truck on site.
Rate B: Applies when same day service is requested or when truck is not on site (unscheduled service).
After hours: Applies when service is requested after 11:00 a.m., minimum charge of $60.00, and $30.00 per hour for any time exceeding two hours.

(2) *Small container service*: Small containers consist of 55-gallon drum or city logo corrugated containers. Rates include delivery, container, liner, collection and disposal.

Rate: $35.00 for initial container, then $5.00 for each additional container. Additional collection charged at $5.00 per container with a minimum of $35.00. After hour service will be charged at the rates set forth for after hour service.

(3) Temporary containers shall be limited to a 90-day duration.

(f) Monthly charges for 55-gallon can service in city-owned public parks:

Number of Pickups per Week							
No. of 55 Gallon Cans	1	2	3	4	5	6	7
1	$9.35	18.55	27.75	37.00	46.30	55.65	78.35
2	17.95	35.85	53.70	71.55	89.45	107.30	152.00
3	25.85	51.75	77.60	103.55	129.40	155.25	221.40
4	33.25	66.40	99.70	132.90	166.10	199.25	286.20
5	39.95	79.85	119.80	159.70	199.60	239.60	346.55
6	46.00	91.95	138.00	183.95	229.95	275.90	402.45
7	51.40	102.85	154.30	205.75	257.15	308.50	453.90
8	56.20	112.40	168.70	224.80	281.05	337.30	486.30
9	60.35	120.60	181.05	241.50	301.85	362.20	543.30
10	63.90	127.70	191.60	255.45	319.35	383.15	581.35

(g) Miscellaneous fees:

(1) *After hours:* Applies when service is requested after 11:00 a.m., minimum charge of $60.00, and $30.00 per hour for any time exceeding two hours.

(2) *Container relocation:* $40.00 per container

(3) *Container change out:* First change out at no charge, $40.00 per change out thereafter

(4) *Container casters:* $35.00 per caster

(5) *Locking lids:* $85.00 per container

(h) Compactor containers and specialized services. The City Manager or the Sanitation Director is authorized to determine rates for compactor containers and other specialized service needs on a case-by-case basis. Such rate determination shall only be made when the established rate schedules are clearly not applicable to the requested service due to a customer's special equipment / compactors. Such rate determination shall consider the city's actual hauling / handling costs, the customer's compaction ratio, cubic yard capacity and the established rate schedules for other services.

(i) Collection and rate policy. Where it is impractical for city collection vehicles to operate due to terrain or other conditions, an alternate collection method will be provided. The City Manager or the Sanitation Director is authorized to promulgate such rate policies, procedures and customer agreements as necessary for the provision of compactors or other specialized solid waste collection services.

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(j) Fuel Surcharge. A fuel surcharge shall be added to each solid waste customer based upon the following percentages of the total solid waste charges:

Average Fuel Price	**Surcharge Percentage**
less than $2.39	0%
$2.39 - $2.77	1%
$2.78 - $3.13	2%
$3.14 - $3.51	3%
$3.52 - $3.90	4%
$3.91 - $4.28	5%
$4.29 - $4.64	6%
$4.65 - $5.02	7%

Application of the fuel surcharge for any given month shall be determined at the first of that month based on the previous four-week average Thursday fuel price. Whenever such previous four-week average Thursday fuel price falls within a fuel-price range as stated above, the corresponding percentage shall be added to the current month's solid waste charges. For purposes of this section, the Oil Price Information Service (OPIS) newsletter average "Thursday" price for dyed diesel fuel regular at the Little Rock, Arkansas, terminal shall be used to calculate the four-week average Thursday fuel price.

Solid Waste Rate Schedule A-4

For bills rendered between January 1, 2018 and December 31, 2018

(a) Commercial sanitation rates.

(1) Customer furnished containers (32-gallon cans):

a. *Basic rate:* $20.50 per month (maximum two (2) 32-gallon cans per collection)

b. *Additional service:* $5.75 per month for each additional waste container.

This service is based on once per week collection. Customers serviced by this method will be converted to a commercial dumpster or roll out waste container as soon as practical or as required by the sanitation department.

(2) City furnished 96-gallon roll out waste container:

a. *Basic rate:* 96-gallon roll out container $19.00 per month

b. *Additional service:* $9.50 per month for each additional roll out waste container.

c. *Lost/Stolen containers:* Lost or stolen roll out containers may be replaced at the expense of the city one time; the customer will be charged $50.00 for each additional occurrence. Lost or stolen containers shall be reported to the police department.

d. *Damaged containers:* A charge of $50.00 will be assessed for roll out containers damaged due to negligence; however, any damage caused by the city or city's equipment will be at the expense of the city.

(3) City furnished dumpsters:

Pickups per week and Rate Per Month							
Cu. Yd. Capacity	1	2	3	4	5	6	7
1	$48.50	75.30	114.65	154.60	193.30	233.10	272.40
2	70.65	118.70	180.45	243.80	304.05	365.05	427.20
3	92.65	163.25	251.05	339.05	427.20	471.65	515.00
4	114.65	207.25	316.45	427.20	536.20	646.95	747.55
6	154.65	272.40	395.75	519.10	642.25	755.45	868.30
8	172.00	307.90	456.90	603.00	731.50	859.35	1031.55

(4) Extra service (dumpsters only) rate per occurrence:

Container Size	*Rate A**	*Rate B***
1 yd.	$16.00	$31.95
2 yd.	21.30	42.60
3 yd.	24.30	48.50
4 yd.	31.95	64.20
6 yd.	42.15	84.15
8 yd.	46.75	93.55

* Rate A: Applicable if city truck is on site or for next day service.
** Rate B: Applicable for same day service when city truck is not on site.

(5) Shared bin rates will be based on an equal share basis or volume of waste generated by customers sharing container. Shared bins will only be available to customers in unique situations where it is unfeasible to place a container for each customer.

(6) Direct customer disposal: $2.25 per hundred pounds of solid waste brought to city's sanitation facility by commercial customer for disposal; provided, however, that direct disposal rates for high volume users (e.g., other governments, commercial haulers, etc.) shall be negotiated by city staff on a case-by-case basis and a rate established which meets or exceeds the city’s disposal costs. There shall be a minimum charge of $15.00.

(b) Residential sanitation rates.

(1) *Basic rate:*
96-gallon roll out container $19.00 per month per residence.
48-gallon roll out container $12.00 per month per residence.

(2) *Additional service:* $9.50 per month per residence for each additional roll out waste container.

(3) *Lost/Stolen containers:* Lost or stolen roll out containers may be replaced at the expense of the city one time; the resident will be charged $50.00 for each additional occurrence. Lost or stolen containers shall be reported to the police department.

(4) *Damaged containers:* A charge of $50.00 will be assessed for roll out containers damaged due to negligence; however, any damage caused by the city or city's equipment will be at the expense of the city.

(5) *Direct customer disposal:* $2.25 per hundred pounds of solid waste brought to the sanitation facility by individual customers for disposal. There shall be a minimum charge of $15.00.

(c) Roll-off containers.

(1) *Delivery:* $40.00 per container

(2) *Daily rental fee:* $6.00 per day

(3) *Haul rate*: $410 per haul, includes disposal

(4) Rates are based on eight tons or less, net weight. Over eight tons, additional charge of $45.00 per ton. Additional charges may apply if Class I and Class IV waste are not segregated and are mixed in same container. The sort fees will be determined by the sanitation director on a case-by-case basis and shall be based on labor used to sort waste.

A service agreement/acknowledgment and initial deposit equal to the anticipated use base rate shall be executed prior to the commencement of the service. The deposit will be applied toward the final bill.

(d) C.A.P.S. (Clean Attractive Property Service) Rates:

(1) *Residential rates:*

a. Each residence is afforded two collection at no charge. A $20.00 fee will apply for each collection thereafter.

b. A maximum of one ton per collection. Additional charges may apply for volumes in excess of one ton; this fee will be based on $2.25 per one hundred pounds in excess of one ton.

(2) *Commercial rates:*

a. Charge per ton - $40.00

b. Charge per item - $15.00 for first item
5.00 for each additional item

c. Charge flat rate - A $20.00 fee will be charged for brush or small miscellaneous materials. Additional charges may apply for volumes in excess of one ton. This additional fee will be based on $2.25 per one hundred pounds in excess of one ton.

(3) *Refrigerant recovery:* There will be a charge of $20.00 per item that contains a compressor. This includes disposal of item.

(e) Special event/ Temporary container rates:

(1) *Large container service:*

Size of bin	Delivery fee	Dump fee (Rate A)	Dump fee (Rate B)
2 yd.	$50.00	$21.30	$42.60
4 yd.	50.00	31.95	64.20
6 yd.	50.00	42.15	84.15
8 yd.	50.00	46.75	93.55

Rate A: Applies when request is called into sanitation office, a day in advance or with truck on site.
Rate B: Applies when same day service is requested or when truck is not on site (unscheduled service).
After hours: Applies when service is requested after 11:00 a.m., minimum charge of $60.00, and $30.00 per hour for any time exceeding two hours.

(2) *Small container service*: Small containers consist of 55-gallon drum or city logo corrugated containers. Rates include delivery, container, liner, collection and disposal.

Rate: $35.00 for initial container, then $5.00 for each additional container. Additional collection charged at $5.00 per container with a minimum of $35.00. After hour service will be charged at the rates set forth for after hour service.

(3) Temporary containers shall be limited to a 90-day duration.

(f) Monthly charges for 55-gallon can service in city-owned public parks:

Number of Pickups per Week							
No. of 55 Gallon Cans	1	2	3	4	5	6	7
1	$9.55	18.90	28.30	37.75	47.25	56.75	79.90
2	18.30	36.55	54.75	73.00	91.25	109.45	155.05
3	26.35	52.80	79.15	105.60	132.00	158.35	225.85
4	33.90	67.75	101.70	135.55	169.40	203.25	291.90
5	40.75	81.45	122.20	162.90	203.60	244.40	353.50
6	46.90	93.80	140.75	187.65	234.55	281.40	410.50
7	52.40	104.90	157.40	209.85	262.30	314.65	463.00
8	57.30	114.65	172.05	229.30	286.65	344.05	496.05
9	61.55	123.00	184.65	246.35	307.90	369.45	554.15
10	65.20	130.25	195.45	260.55	325.75	390.80	593.00

(g) Miscellaneous fees:

(1) *After hours:* Applies when service is requested after 11:00 a.m., minimum charge of $60.00, and $30.00 per hour for any time exceeding two hours.

(2) *Container relocation:* $40.00 per container

(3) *Container change out:* First change out at no charge, $40.00 per change out thereafter

(4) *Container casters:* $35.00 per caster

(5) *Locking lids:* $85.00 per container

(h) Compactor containers and specialized services. The City Manager or the Sanitation Director is authorized to determine rates for compactor containers and other specialized service needs on a case-by-case basis. Such rate determination shall only be made when the established rate schedules are clearly not applicable to the requested service due to a customer's special equipment / compactors. Such rate determination shall consider the city's actual hauling / handling costs, the customer's compaction ratio, cubic yard capacity and the established rate schedules for other services

(i) Collection and rate policy. Where it is impractical for city collection vehicles to operate due to terrain or other conditions, an alternate collection method will be provided. The City Manager or the Sanitation Director is authorized to promulgate such rate policies, procedures and customer agreements as necessary for the provision of compactors or other specialized solid waste collection services.

.

(j) Fuel Surcharge. A fuel surcharge shall be added to each solid waste customer based upon the following percentages of the total solid waste charges:

Average Fuel Price	**Surcharge Percentage**
less than $2.39	0%
$2.39 - $2.77	1%
$2.78 - $3.13	2%
$3.14 - $3.51	3%
$3.52 - $3.90	4%
$3.91 - $4.28	5%
$4.29 - $4.64	6%
$4.65 - $5.02	7%

Application of the fuel surcharge for any given month shall be determined at the first of that month based on the previous four-week average Thursday fuel price. Whenever such previous four-week average Thursday fuel price falls within a fuel-price range as stated above, the corresponding percentage shall be added to the current month's solid waste charges. For purposes of this section, the Oil Price Information Service (OPIS) newsletter average "Thursday" price for dyed diesel fuel regular at the Little Rock, Arkansas, terminal shall be used to calculate the four-week average Thursday fuel price.

Solid Waste Rate Schedule A-5

For bills rendered from and after January 1, 2019 and December 31, 2019

(a) Commercial sanitation rates.

(1) Customer furnished containers (32-gallon cans):

a. *Basic rate:* $20.50 per month (maximum two (2) 32-gallon cans per collection)

b. *Additional service:* $5.75 per month for each additional waste container.

This service is based on once per week collection. Customers serviced by this method will be converted to a commercial dumpster or roll out waste container as soon as practical or as required by the sanitation department.

(2) City furnished 96-gallon roll out waste container:

a. *Basic rate:* 96-gallon roll out container $19.00 per month

b. *Additional service:* $9.50 per month for each additional roll out waste container.

c. *Lost/Stolen containers:* Lost or stolen roll out containers may be replaced at the expense of the city one time; the customer will be charged $50.00 for each additional occurrence. Lost or stolen containers shall be reported to the police department.

d. *Damaged containers:* A charge of $50.00 will be assessed for roll out containers damaged due to negligence; however, any damage caused by the city or city's equipment will be at the expense of the city.

(3) City furnished dumpsters:

Pickups per week and rate per month							
Cu. Yd. Capacity	1	2	3	4	5	6	7
1	$49.45	76.80	116.95	157.70	197.15	237.75	277.85
2	72.05	121.05	184.05	248.70	310.15	372.35	435.75
3	94.50	166.50	256.05	345.85	435.75	481.10	525.30
4	116.95	211.40	322.80	435.75	546.90	659.90	762.50
6	157.75	277.85	403.65	529.50	655.10	770.55	885.65
8	175.45	314.05	466.05	615.05	746.15	876.55	1052.20

(4) Extra service (dumpsters only) rate per occurrence:

Container Size	*Rate A**	*Rate B***
1 yd.	$16.30	$32.60
2 yd.	21.75	43.45
3 yd.	24.80	49.45
4 yd.	32.60	65.50
6 yd.	43.00	85.85
8 yd.	47.70	95.40

* Rate A: Applicable if city truck is on site or for next day service.
** Rate B: Applicable for same day service when city truck is not on site.

(5) Shared bin rates will be based on an equal share basis or volume of waste generated by customers sharing container. Shared bins will only be available to customers in unique situations where it is unfeasible to place a container for each customer.

(6) Direct customer disposal: $2.25 per hundred pounds of solid waste brought to city's sanitation facility by commercial customer for disposal; provided, however, that direct disposal rates for high volume users (e.g., other governments, commercial haulers, etc.) shall be negotiated by city staff on a case-by-case basis and a rate established which meets or exceeds the city's disposal costs. There shall be a minimum charge of $15.00.

(b) Residential sanitation rates.

(1) *Basic rate:*
96-gallon roll out container $19.00 per month per residence.
48-gallon roll out container $12.00 per month per residence.

(2) *Additional service:* $9.50 per month per residence for each additional roll out waste container.

(3) *Lost/Stolen containers:* Lost or stolen roll out containers may be replaced at the expense of the city one time; the resident will be charged $50.00 for each additional occurrence. Lost or stolen containers shall be reported to the police department.

(4) *Damaged containers:* A charge of $50.00 will be assessed for roll out containers damaged due to the negligence; however, any damage caused by the city or city's equipment will be at the expense of the city.

(5) *Direct customer disposal:* $2.25 per hundred pounds of solid waste brought to the sanitation facility by individual customers for disposal. There shall be a minimum charge of $15.00.

(c) Roll-off containers.

(1) *Delivery:* $40.00 per container

(2) *Daily rental fee:* $6.00 per day

(3) *Haul rate*: $410 per haul, includes disposal:

(4) Rates are based on eight tons or less, net weight. Over eight tons, additional charge of $45.00 per ton. Additional charges may apply if Class I and Class IV waste are not segregated and are mixed in same container. The sort fees will be determined by the sanitation director on a case-by-case basis and shall be based on labor used to sort waste.

A service agreement/acknowledgment and initial deposit equal to the anticipated use base rate shall be executed prior to the commencement of the service. The deposit will be applied toward the final bill.

(d) C.A.P.S. (Clean Attractive Property Service) rates:

(1) *Residential rates:*

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b. A maximum of one ton per collection. Additional charges may apply for volumes in excess of one ton; this fee will be based on $2.25 per one hundred pounds in excess of one ton.

(2) *Commercial rates:*

a. Charge per ton - $40.00

b. Charge per item - $15.00 for first item
5.00 for each additional item

c. Charge flat rate - A $20.00 fee will be charged for brush or small miscellaneous materials. Additional charges may apply for volumes in excess of one ton. This additional fee will be based on $2.25 per one hundred pounds in excess of one ton.

(3) *Refrigerant recovery:* There will be a charge of $20.00 per item that contains a compressor. This includes disposal of item.

(e) Special event/ Temporary container rates:

(1) *Large container service:*

Size of bin	Delivery fee	Dump fee (Rate A)	Dump fee (Rate B)
2 yd.	$50.00	$21.75	$43.45
4 yd.	50.00	32.60	65.50
6 yd.	50.00	43.00	85.85
8 yd.	50.00	47.70	95.40

Rate A: Applies when request is called into sanitation office, a day in advance or with truck on site.
Rate B: Applies when same day service is requested or when truck is not on site (unscheduled service).
After hours: Applies when service is requested after 11:00 a.m., minimum charge of $60.00, and $30.00 per hour for any time exceeding two hours.

(2) *Small container service*: Small containers consist of 55-gallon drum or city logo corrugated containers. Rates include delivery, container, liner, collection and disposal.

Rate: $35.00 for initial container, then $5.00 for each additional container. Additional collection charged at $5.00 per container with a minimum of $35.00. After hour service will be charged at the rates set forth for after hour service.

(3) Temporary containers shall be limited to a 90-day duration.

(f) Monthly charges for 55-gallon can service in city-owned public parks:

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No. of 55 Gallon Cans	1	2	3	4	5	6	7
1	$9.75	19.30	28.85	38.50	48.20	57.90	81.50
2	18.65	37.30	55.85	74.45	93.10	111.65	158.15
3	26.90	53.85	80.75	107.70	134.65	161.50	230.35
4	34.60	69.10	103.75	138.25	172.80	207.30	297.75
5	41.55	83.10	124.65	166.15	207.65	249.30	360.55
6	47.85	95.70	143.55	191.40	239.25	287.05	418.70
7	53.45	107.00	160.55	214.05	267.55	320.95	472.25
8	58.45	116.95	175.50	233.90	292.40	350.95	505.95
9	62.80	125.45	188.35	251.30	314.05	376.85	565.25
10	66.50	132.85	199.35	265.75	332.25	398.60	604.85

(g) Miscellaneous fees:

(1) *After hours:* Applies when service is requested after 11:00 a.m., minimum charge of $60.00, and $30.00 per hour for any time exceeding two hours.

(2) *Container relocation:* $40.00 per container

(3) *Container change out:* First change out at no charge, $40.00 per change out thereafter

(4) *Container casters:* $35.00 per caster

(5) *Locking lids:* $85.00 per container

(h) Compactor containers and specialized services. The City Manager or the Sanitation Director is authorized to determine rates for compactor containers and other specialized service needs on a case-by-case basis. Such rate determination shall only be made when the established rate schedules are clearly not applicable to the requested service due to a customer's special equipment / compactors. Such rate determination shall consider the city's actual hauling / handling costs, the customer's compaction ratio, cubic yard capacity and the established rate schedules for other services.

(i) Collection and rate policy. Where it is impractical for city collection vehicles to operate due to terrain or other conditions, an alternate collection method will be provided. The City Manager or the Sanitation Director is authorized to promulgate such rate policies, procedures and customer agreements as necessary for the provision of compactors or other specialized solid waste collection services.

(j) Fuel Surcharge. A fuel surcharge shall be added to each solid waste customer based upon the following percentages of the total solid waste charges:

Average Fuel Price	Surcharge Percentage
less than $2.39	0%
$2.39 - $2.77	1%
$2.78 - $3.13	2%
$3.14 - $3.51	3%
$3.52 - $3.90	4%
$3.91 - $4.28	5%
$4.29 - $4.64	6%
$4.65 - $5.02	7%

Application of the fuel surcharge for any given month shall be determined at the first of that month based on the previous four-week average Thursday fuel price. Whenever such previous four-week average Thursday fuel price falls within a fuel-price range as stated above, the corresponding percentage shall be added to the current month's solid waste charges. For purposes of this section, the Oil Price Information Service (OPIS) newsletter average "Thursday" price for dyed diesel fuel regular at the Little Rock, Arkansas, terminal shall be used to calculate the four-week average Thursday fuel price.

(Ord. No. 6050, §1, 11-18-2014)

9-1-25. Uniform municipal utility billing procedure.

The charges for service and the procedures for billing, payment, penalty, and discontinuance of service shall be in accordance with the uniform municipal billing procedure ordinance as may now or hereafter be enacted by the board of directors.

Cross reference-Utility billing procedure, §9-6-1.

9-1-26. Penalty for violation.

The penalty for violation of this ordinance shall, upon conviction in the Hot Springs district court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors.

(Ord. No. 5400, §1, 11-7-05)

CHAPTER 2

SANITATION DEPARTMENT

RESERVED

9-2-1. Reserved.

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CHAPTER 3

WASTEWATER SYSTEM

Art. I. Rates and Charges, §§ 9-3-1
Art. II. Hot Springs Wastewater Impact Fee Ordinance, §§ 9-3-2--9-3-29
Art. III. Sewer Use Ordinance, §§ 9-3-30--9-3-40
Art. IV. Industrial Wastewater Pretreatment Code, §§ 9-3-41--9-3-60
Art. V. Grease Trap Regulations, §§ 9-3-61–9-3-93
Div. I. General Provisions, §§ 9-3-61–9-3-63
Div. II. General Requirements, §§ 9-3-64–9-3-69
Div. III. Grease Traps, Interceptors, Separators and Grease Recovery Devices, §§ 9-3-70–9-3-77
Div. IV. Special Conditions, §§ 9-3-78–9-3-81
Div. V. Transport of Liquid Waste, §§ 9-3-82–9-3-84
Div. VI. Disposal of Transported Liquid Waste, §§ 9-3-85–9-3-93

ARTICLE I. RATES AND CHARGES

9-3-1. Rates and charges.

The following rates and charges are hereby established for the City of Hot Springs Wastewater (Sewer) System, hereinafter termed "System," and this ordinance shall be known as the Hot Springs Wastewater Rate Ordinance

9-3-1.1. Rates established.

The City hereby establishes as rates to be charged for services furnished by the System, which the Board of Directors finds and declares to be fair, reasonable, and necessary, to be charged to all users who contribute wastewater to the System. The proceeds of such charges so derived will be used for the purpose of operating and maintaining the System, including replacement ("OM&R") and debt service as specified hereinafter. (Replacement is defined as expenditures for obtaining and installing equipment, accessories, or appurtenances during the useful life of the treatment works necessary to maintain the capacity and performance for which they were designed and constructed.) In order to provide for the cost of service differentials between System customers within the corporate limits of Hot Springs and those outside the corporate limits, a separate rate shall be established for "Inside-City" and "Outside-City" customers. All wastewater users shall be classified by the Board of Directors as residential, commercial, or industrial. None of the facilities or services afforded by the System shall be furnished without a charge being made therefore.

Cross reference - §16-4-1 et seq, Subdivision Code.

9-3-1.2. User charge methodology.

The user charge methodology for operation, maintenance, and replacement (OM&R) shall be as follows:

$$\text{Total annual OM\&R cost in \$/1,000 gal.} = \frac{\text{Total annual OM\&R \$}}{\text{(\# of 1,000 gal. sold annually)}}$$

9-3-1.3. Minimum user OM&R volume charge.

The minimum monthly volume charge for operation and maintenance, including replacement, for the first 1,000 gallons or portion thereof of metered water consumption per user of the System shall be based upon the following rate schedule(s), attached hereto and incorporated herein:

	Inside City	Outside City
January 1 – December 31, 2013	$3.80	$5.30
January 1 – December 31, 2014	$4.26	$5.94
January 1 – December 31, 2015	$4.52	$6.30
January 1 – December 31, 2016	$4.66	$6.49
January 1 – December 31, 2017	$4.80	$6.68
January 1, 2018 and thereafter	3% increase per annum	3% increase per annum

9-3-1.4. Additional OM&R volume charge.

All users of the System shall be charged an additional monthly volume charge for operation and maintenance, including replacement (OM&R), calculated as follows:

(a) For all metered (either from a City-owned or private-owned water meter) water consumption in excess of 1,000 gallons (minimum), an additional charge (based on 1,000 gallon increments) calculated on the basis of wastewater discharged into the System shall be based upon the following rate schedule(s), attached hereto and incorporated herein:

	Inside City	Outside City	
January 1 – December 31, 2013	$3.80	$5.30	per 1,000 gallons or portion thereof
January 1 – December 31, 2014	$4.26	$5.94	per 1,000 gallons or portion thereof
January 1 – December 31, 2015	$4.52	$6.30	per 1,000 gallons or portion thereof
January 1 – December 31, 2016	$4.66	$6.49	per 1,000 gallons or portion thereof
January 1 – December 31, 2017	$4.80	$6.68	per 1,000 gallons or portion thereof
January 1, 2018 and thereafter	3% increase per annum	3% increase per annum	

(b) It shall be presumed that 88% of a customer's metered water consumption for the billing period is discharged into the System as wastewater. The volume charge shall be computed on that percentage of water consumption unless the customer establishes that a lower percentage reaches the System. Any customer may apply to the Utilities Director for determination that less than 88% of the customer's water consumption is discharged into the System. Upon a sufficient showing by the customer, the Utilities Director shall determine the actual percentage that reaches the System and the volume charge shall be computed on the lower percentage.

(c) In cases of customers not on a metered basis, the Utilities Director shall establish water consumption based on a minimum of 2,400 gallons per month (which shall include one occupant), plus 2,400 gallons per person per month for each additional occupant. Commercial consumption shall be established by the Utilities Director based on a comparison with similarly sized commercial customers who are on metered service.

9.3.1.5. Debt service charge.

All users of the System shall be charged a flat monthly fee for debt service based on meter size shall be based upon the following schedule(s), attached hereto and incorporated herein:

JANUARY 1 – DECEMBER 31, 2013

Meter Size	Inside City	Outside City
⅝"	$12.50	$17.41
¾"	$12.50	$17.41
1"	$18.98	$26.74
1 ½"	$26.10	$35.99
2"	$43.18	$60.19
3"	$174.16	$243.84
4"	$223.98	$315.03
6"	$337.88	$471.63
8"	$470.28	$656.70

JANUARY 1 – DECEMBER 31, 2014

Meter Size	Inside City	Outside City
⅝"	$14.00	$19.50
¾"	$14.00	$19.50
1"	$21.26	$29.95
1 ½"	$29.23	$40.31
2"	$48.36	$67.41
3"	$195.06	$273.10
4"	$250.86	$352.83
6"	$378.43	$528.23
8"	$526.71	$735.50

JANUARY 1 – DECEMBER 31, 2015

Meter Size	Inside City	Outside City
⅝"	$14.84	$20.67
¾"	$14.84	$20.67
1"	$22.54	$31.75
1 ½"	$30.98	$42.73
2"	$51.26	$71.45
3"	$206.76	$289.49
4"	$265.91	$374.00
6"	$401.14	$559.92
8"	$558.31	$779.63

JANUARY 1 – DECEMBER 31, 2016

Meter Size	Inside City	Outside City
⅝"	$15.29	$21.29
¾"	$15.29	$21.29
1"	$23.22	$32.70
1 ½"	$31.91	$44.01
2"	$52.80	$73.59
3"	$212.96	$298.17
4"	$273.89	$385.22
6"	$413.17	$576.72
8"	$575.06	$803.02

JANUARY 1 – DECEMBER 31, 2017

Meter Size	Inside City	Outside City
⅝"	$15.75	$21.93
¾"	$15.75	$21.93
1"	$23.92	$33.68
1 ½"	$32.87	$45.33
2"	$54.38	$75.80
3"	$219.35	$307.12
4"	$282.11	$396.78
6"	$425.57	$594.02
8"	$592.31	$827.11

JANUARY 1, 2018 and thereafter

All meters	3% increase per annum	3% increase per annum

9-3-1.6. Total user charge.

The total user monthly charge shall include the OM&R charges and debt service as follows:

Minimum bill per user = OM&R for 1,000 gal + Debt Service
Example: 2013, ⅝" meter, Inside City: $16.30 = $3.80 + $12.50

9-3-1.7. Excessive Strength Charges.

For any user, when the BOD exceeds *250 mg/l, the suspended solids exceed 250 mg/l, or when other pollutant concentrations exceed the range of concentrations of these pollutants in normal domestic sewage, a surcharge shall be added to the basic charge. This surcharge shall be calculated by the following formula:

$$C_5 = (B_C(B) + S_C(S) + P_C(P))\ V_U$$

Symbols and Definitions:

C_5	=	A surcharge for wastewater of excessive strength
B_C	=	Operation and maintenance ("O&M") cost for treatment of a unit of biochemical oxygen demand ("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

* Maximum limit for average domestic waste

9-3-1.8. Charges for Extraneous Flows

The costs of O&M for all flows not directly attributable to users (such as Infiltration/Inflow) shall be distributed among users on the same basis as operation and maintenance charges.

9-3-1.9. Toxic Pollutants Charges.

Each user that discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge of the System's treatment works shall pay for such increased costs.

9-3-1.10. Tapping Fee.

Each customer who connects to the System shall pay a tapping fee and paving cut fee (if required) in an amount equal to the actual cost to the System for said connection as calculated by the Hot Springs Municipal Utilities Department, plus a service connection permit fee of $75.

9-3-1.11. Septic Tank Haulers.

Persons, firms, or corporations who haul and dump bulk sewage daily at the wastewater treatment plant shall be charged a dump fee of $20 per load

9-3-1.12. Compost Fee.

The City Manager and Utilities Director are hereby authorized to establish a policy and fee for distribution and loading of compost material to the general public. Said fee shall be based on the System's loading cost and demand for compost and loading services.

9-3-1.13. Pretreatment Permit.

The direct cost of pretreatment program costs incurred by the System on behalf of industrial customers (e.g., lab fees, etc.) shall be paid by the industry requiring such services. Said pretreatment permit fee shall be equal to the direct System costs for providing such services.

9-3-1.14. Lift Station Surcharge.

Any new customer attaching to the System via grinder pump station or a gravity system serviced by a grinder pump station shall pay an additional tie-on charge of $500.

9-3-1.15. Management System.

A financial management system shall be established and maintained by the City to document compliance with federal regulations pertaining to the Federal Water Pollution Control Act. Such system will account for all revenues generated and expenditures for OM&R and debt service.

9-3-1.16. Annual Review and Notification

(a) The City will continuously monitor the revenues of the System, including specifically the adequacy of its rates and delinquent billings, and will take appropriate steps to remedy delinquent billings or inadequacy of rates. The City will make a full review annually of the rates and charges of the System.

(b) The City shall at all times fix, charge, and collect rates and charges for services furnished by the System, including increasing rates and charges as necessary, which shall provide revenues sufficient to at least: (1) pay the City's annual costs of OM&R; (2) pay annual debt service; and (3) provide the necessary bond coverage.

(c) Each user shall be notified at least annually, in conjunction with the regular bill, of the wastewater use rate and the portion of the user charges which are attributable to wastewater treatment. Costs shall be broken down to show the operation and maintenance costs attributable to that user.

9-3-1.17. Charge Review.

(a) Any user who feels his user charge is unjust and inequitable may make written application to the Utilities Director requesting a review of his user charge. Said written request shall, where necessary, show the actual or estimated average flow and/or strength of his wastewater in comparison with the values upon which the charge is based, including how the measurements or estimates were made.

(b) Review of the request shall be made by the Utilities Director; and if substantiated, the user charges for that user shall be recalculated based on the revised flow and/or strength data and the new charges shall be applicable beginning with the next billing cycle/period.

9-3-1.18. Precedence.

The user charge system for the System shall take precedence over any terms or conditions of agreements or contracts between the City and any of the users which are inconsistent with applicable federal regulations regarding such user charge systems.

9-3-1.19. Appeals.

Any customer who is dissatisfied with a determination made by the Utilities Director under this ordinance may appeal to the City Manager. A customer who is dissatisfied with a decision by the City Manager, whether an initial decision or a decision on appeal from a determination by the Utilities Director, may appeal to the Board of Directors. Each appellate authority shall have authority to correct errors in the action appealed from.

9-3-1.20. Billing

Users will be billed on a monthly basis in accordance with the City's uniform municipal utility billing procedure

(Ord. No. 5978, §1, 11-5-2013)

ARTICLE II. HOT SPRINGS IMPACT FEE ORDINANCE

9-3-2. Impact fee ordinance.

A wastewater impact fee is hereby established for the City of Hot Springs Wastewater (Sewer) System, hereinafter termed "System."

9-3-2.1. Short title, authority and applicability.

(a) *Short title.* This ordinance shall be known and may be cited as the "Hot Springs Wastewater Impact Fee Ordinance."

(b) *Authority.* This ordinance is enacted pursuant to the authority granted to the city by Ark. Code Ann. §§ 14-56-103 and the other relevant laws and judicial interpretations of the State of Arkansas.

(c) *Applicability.* The provisions of this ordinance shall apply to all of the territory within the service limits of the system including the corporate limits of Hot Springs, the unincorporated areas of Garland County served by the system, and all future additions to said areas.

9-3-2.2. Definitions.

For the purpose of this ordinance, the following terms shall have the following meanings:

(a) *Board of directors*. The duly elected board of directors of the city of Hot Springs, Arkansas.

(b) *Capital wastewater facilities*. The city's wastewater collection system, treatment facilities, lift lines, lift stations, interceptors, buildings, improvements to land, land and related equipment used to provide city wastewater services as defined in the study. The costs of capital wastewater facilities also include the costs of related planning and design for these facilities.

(c) *Certificate of occupancy*. A certificate issued by the city permitting the occupancy of a structure connected to the city's wastewater system. Said certificate may be limited to the structure's wastewater system for those structures located outside the corporate limits of Hot Springs.

(d) *City*. The City of Hot Springs, Arkansas, including, but not limited to, its municipal utilities department.

(e) *Developer*. Any person, firm or corporation commencing a development who is obligated to pay an Impact Fee in accordance with the terms of this ordinance, or who would be obligated to pay such a fee except for an exemption, refund, or credit provided for in this ordinance.

(f) *Development*. Any residential, multifamily, commercial, or industrial improvement to lands within the system service area.

(g) *Impact fee study (the study)*. A study, that sets forth reasonable methodologies and analyses for determining the impacts of various types of development on the city's capital wastewater facilities, and that determines the cost of the facilities necessary to meet the demands created by new development.

(h) *Impact fees*. The wastewater impact fees established by this ordinance pursuant to Ark. Code Ann. §§ 14-56-103.

(i) *Impact fee trust fund*. The trust fund established by this ordinance. The impact fee trust fund is also called the trust fund.

(j) *Improvements*. The results of planning, engineering design, construction inspection, on-site construction, off-site construction, land, the purchase of related equipment, and financing associated with new or expanded capital wastewater facilities, buildings, and equipment that expand the capacity of capital wastewater facilities, but not including maintenance, operations, or improvements that do not expand capacity.

(k) *Independent fee calculation study*. A study prepared by *economists.com* and NRS Consulting Engineers, calculating the cost of expansions or improvements to the capital wastewater facilities required to serve the developer's proposed development, that is based on the established level of service standard, performed on an average cost (not marginal cost) methodology, that uses the service units and unit construction costs stated in the study, and is performed in compliance with any criteria for such studies established by this ordinance or by the city.

(l) *Person*. Person means an individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other entity.

(m) *State*. The State of Arkansas.

(n) *Successor in interest*. A person, as defined by this ordinance, who gains a fee simple interest in land for which a impact fee is paid or a credit is approved pursuant to the terms of this ordinance.

(o) *System*. The city of Hot Springs municipal wastewater system including capital wastewater facilities.

9-3-2.3. Legislative findings.

The board of directors of Hot Springs, Arkansas, finds, determines and declares that:

(a) *System expansion required*. The protection of the health, safety, and general welfare of the citizens of the city requires that the city's capital sewer facilities be expanded and improved to accommodate growth and development within the city and the system service area.

(b) *System demand*. New residential and nonresidential development imposes increased and excessive demands upon the existing system facilities and often overburdens the existing system facilities. Provided, further, new development is expected to continue, and will place ever-increasing demands on the system to provide these facilities to serve new development.

(c) *System revenues*. System revenues generated from new development often does not generate sufficient funds to provide the necessary capital sewer facilities to accommodate new development; therefore, the creation of an equitable wastewater impact fee system would enable the city to impose a proportionate share of the costs of the needed improvements to system capital facilities to accommodate new development.

(d) *Study conducted*. In order to implement an equitable wastewater impact fee system, the city has caused to be prepared a "Wastewater Impact Fee Study," hereinafter termed "study." Said study is incorporated herein by reference, and sets forth reasonable methodologies and analyses for determining the impacts of various types of development on the city's system capital facilities, and for determining the cost of acquiring the improvements necessary to meet the demands for such services created by new development.

(e) *Standards established*. The city hereby establishes as city standards the assumptions and level of service (LOS) standards referenced in the study as part of its current plans for future expansions to the city's system capital facilities.

(f) *Impact fee use limited*. The impact fees described in this ordinance are based on the study, and do not exceed the costs of improvements to serve new development that will pay the impact fees nor shall such fees be used to correct existing deficiencies for these capital facilities, or to replace or rehabilitate existing improvements.

(g) *Benefit*. All of the capital wastewater facilities listed in the study will benefit all new development that depends on city services, and it is therefore appropriate to treat the entire system as a single service area for purposes of calculating, collecting, and spending the impact fees.

(h) *Impact fee relationship*. There is both a rational nexus and a rough proportionality between the development impacts created by each type of development covered by this ordinance and the impact fees that such development will be required to pay.

(i) *Impact fee purposes*. This ordinance creates a system by which wastewater impact fees paid by new development will be used to finance, defray, or reimburse all or a portion of the costs incurred by the city to construct improvements for system's capital wastewater facilities in ways that benefit the development that paid each fee within a reasonable period of time after the fee is paid.

9-3-2.4. Intent.

(a) *Capital improvement plan*. This ordinance is adopted to assist in the implementation of the city's capital improvement plan (CIP) for wastewater system projects. To that end, the intent of this ordinance is to ensure that new development bears a proportionate share of the cost of improvements to capital wastewater facilities; to ensure that such proportionate share does not exceed the cost of improvements for capital wastewater facilities required to accommodate new development; and to ensure that funds collected from new development are actually used for improvements for capital wastewater facilities that benefit such new development.

(b) *Impact fee purpose*. It is the further intent of this ordinance that new development pay for its fair share of the cost of improvements for capital wastewater facilities required to accommodate new development through the imposition of an impact fee that will be used to finance, defray, or reimburse all or a portion of the costs incurred by the city to construct improvements to the city capital wastewater facilities that serve or benefit such new development. It is not the intent of this ordinance to collect any money from any new development in excess of the actual amount necessary to offset new demands for capital wastewater facilities.

(c) *Funds restricted*. It is not the intent of this ordinance that any monies collected from any impact fee deposited in the wastewater impact fee trust fund ever be commingled with monies from any other city trust fund or account, or ever be used for a type of facility or equipment different from that for which the fees are paid, or are ever used to replace or rehabilitate existing improvements.

9-3-2.5. Impact fee imposed.

(a) *Impact fee obligation.* After the effective date of this ordinance, any person, firm or corporation who commences any development, except those exempted hereinafter, shall be obligated to pay impact fees upon commencement of such activity. The amount of the fees shall be determined in accordance with this ordinance, and shall be paid to the city as provided hereinafter. All monies paid by a developer pursuant to this ordinance shall be identified as impact fees and shall be promptly deposited into the wastewater trust fund described hereinafter.

(b) *Impact fee collection.* The impact fee imposed by this ordinance shall be collected in connection with and as a condition to the installation of a water meter serving the development. Should there not be water service to the development, the impact fee will be collected at the issuance of a certificate of occupancy. For those developments located outside the corporate limits of Hot Springs that are not served by water, the certificate of occupancy shall be limited to the development's wastewater system.

(c) *Impact fee calculation.* Impact fees shall be based on water meter size. Where no water meter is present, the utilities director shall determine and assign a water meter size equivalent based on a comparison with similarly-sized developments that are on metered service. The impact fees established hereinafter may be revised from time to time by the board of directors based on a new or revised impact fee study.

(d) *Impact fee schedule.*

Water Meter Size	Meter Ratio	Impact Fee
5/8"	1	$ 500.00
3/4"	1	$ 500.00
1"	1.4	$ 700.00
1 ½"	1.8	$ 900.00
2"	2.9	$ 1,450.00
3"	11	$ 5,500.00
4"	14	$ 7,000.00
6"	21	$10,500.00
8"	29	$14,500.00

(e) *Impact fee correction.* If an impact fee has been calculated and paid based on a mistake or misrepresentation, it shall be recalculated. Any amounts overpaid by a developer shall be refunded by the city within thirty (30) days after the city's acceptance of the recalculated amount, with accrued interest since the date of such overpayment. Any amounts underpaid by the developer shall be paid to the city within thirty (30) days after the city's acceptance of the recalculated amount, with accrued interest since the date of such underpayment. In the case of an underpayment to the city, the city shall not issue any additional permits or approvals for the project for which the impact fee was previously paid until such underpayment is corrected, and if amounts owed to the city are not paid within such thirty (30) day period, the city may also rescind any permits issued in reliance on the previous payment of such impact fee and refund such fee to the then current owner of the land.

(f) *Impact fee installments.* The board of directors may, on a case by cases basis, permit the payment of impact fees through monthly installments. Such installments shall not exceed twenty-four (24) months. Only those persons who demonstrate a documented hardship shall be eligible for installment payments as evidence by proof of household income at or below the then current low and moderate income guidelines[EN] as published by the United States Department of Housing and Urban Development (HUD). Persons desiring to pay impact fees by installment shall make application on such forms as may be prescribed by the city to the utilities director. The utilities director shall process such applications for consideration by the board of directors.

Editor's note - The latest edition of the HUD guidelines are on file in the Office of the City Clerk.

(g) *Impact fee waiver.* In order to promote the economic development and the provision of affordable housing in the city, the board of directors may agree, on a case by case basis to waive some or all of the impact fees imposed on a proposed development by this ordinance from other funds of the city that are not restricted to other uses. Any such decision to pay or waive impact fees on behalf of a developer shall be at the discretion of the board of directors and shall be made pursuant to goals and objectives of the board of directors to promote economic development and affordable housing. Affordable housing developments may include federally funded projects or projects funded by private non profit organizations for the benefit of low and moderate income persons. Developers seeking fee waiver, either in whole or part, shall make application on such forms as may be prescribed by the city to the utilities director. The utilities director shall process such applications for consideration by the board of directors.

9-3-2.6. Impact fee exceptions.

The following types of development shall be exempted from payment of the impact fees. Any claim for exemption shall be made no later than the time when the applicant applies for the first wastewater connection permit for the proposed development that creates the obligation to pay the impact fees. Any claim for exemption not made at or before that time shall have been waived. The utilities director or a designee shall determine the validity of any claim for exemption pursuant to the standards set forth below.

(a) Reconstruction, expansion, or replacement of a previously existing residential unit that does not create any additional residential units or installation of a larger water meter.

(b) The replacement of a destroyed or partially destroyed non-residential building or structure with a new non-residential building or structure of the same use as the original structure and with no more than a five (5%) percent increase in floor area from the original structure and no increase in the size or number of water meters.

(c) Construction of unoccupied accessory structures related to a residential unit.

(d) Projects for which an impact fee for each type of facility covered by this Ordinance has previously been paid in an amount that equals or exceeds the impact fee that would be required by this ordinance.

(e) Projects built by the federal government and the state.

(f) Public schools.

(g) Construction within a duly established redevelopment district or improvement district for which the impact fees have specifically been waived by resolution of the board of directors prior to commencement of the improvements.

(h) Such other economic or community development projects for which the impact fees have specifically been waived by resolution of the board of directors prior to commencement of the development.

9-3-2.7. Use of impact fee funds.

(a) *Trust fund.* A wastewater impact fee trust fund (hereinafter "trust fund") is hereby established for the purpose of ensuring that the impact fees collected pursuant to this ordinance are designated for the accommodation of impacts reasonably attributable to new development that paid the impact fees.

(b) *Trust fund management.* All impact fees collected by the city pursuant to this ordinance shall be promptly deposited into the trust fund. The impact fee trust fund shall be maintained in an interest bearing account. Monies in the trust fund shall be considered to be spent in the order collected, on a first-in/first-out basis.

(c) *Trust fund limitations.* The following limitations shall apply to the use and expenditure of impact fees collected and deposited in the trust fund:

(1) The impact fee imposed pursuant to this ordinance may be assessed, collected and expended only for the planning, design and construction of new wastewater facilities or of capital improvements to existing wastewater facilities that expand the system's capacity or for the recoupment of prior capital improvements to wastewater facilities that created capacity available to serve new development.

(2) The impact fee may be pledged to the payment of bonds issued by the city to finance wastewater capital improvements or wastewater facilities for which the impact fee may be imposed.

(3) No impact fee shall be assessed for or expended upon the operation or maintenance of any wastewater facility or for the construction or improvement of wastewater facilities that do not create additional capacity.

(4) No monies from the trust fund shall be spent for periodic or routine maintenance, rehabilitation, or replacement of any facility of any type or to cure deficiencies in capital wastewater facilities existing on the effective date of this ordinance.

9-3-2.8. Refunds of impact fees paid.

(a) *When refund due.* The city shall refund the portion of collected development impact fees, including the accrued interest, that has not been expended seven (7) years from the date the fees were paid. The refund shall be made on a pro rata basis and shall be paid in full not later than ninety (90) days after the date certain upon which the refund becomes due.

(b) *Refund notice*. When due, a refund shall be paid to the present owner of the property that was the subject of new development and against which the fee was assessed and collected. Notice of the right to a refund, including the amount of the refund and the procedure for applying for and receiving the refund, shall be sent or served in writing to the present owners of the property no later than thirty (30) days after the date on which the refund becomes due. The sending by regular mail of the notices to all present owners of record shall be sufficient to satisfy the requirement of notice.

(c) *Refund application*. In order to be eligible to receive a refund pursuant to this section, the developer or developer's successor in interest must submit a written refund application on such forms as shall be provided by the city. Said application must be received by the city within 180 calendar days of the date the notice of refund was mailed. If the refund application is being submitted by a developer's successor, the city may require written documentation of such succession. The utilities director or his/her designee may approve the refund application if it is determined the developer or developer's successor has paid an impact fee and that the city has not spent said fee within the required period of time as established by Ark. Code Ann. §§ 14-56-103.

(d) *Refund for expired project.* If a developer has paid an impact fee required by this ordinance and has obtained a wastewater connection permit, and the permit for which the fee was paid later expires without the possibility of further extension, then the developer or the developer's successor in interest shall be entitled to a refund of the fee paid, without interest. In order to be eligible to receive a refund of impact fees, the developer or the developer's successor in interest shall be required to submit an application for such refund to the utilities director or his/her designee within thirty (30) days after the expiration of the permit for which the fee was paid. If a successor in interest claims a refund of impact fees, the city may require written documentation that such rights have been conveyed to the claimant.

(e) *Refund for altered project.* After an impact fee has been paid pursuant to this ordinance, no refund of any part of such fee shall be made if the project for which the fee was paid is later demolished, destroyed, or is altered, reconstructed, or reconfigured so as to reduce the size of the project or the number of units in the project.

9-3-2.9. Fee review.

The impact fees described in this ordinance and the administrative procedures of this ordinance should be reviewed at least once every five (5) years to ensure that (1) the demand and cost assumptions underlying such fees are still valid, (2) the resulting fees do not exceed the actual cost of constructing capital wastewater facilities and that are required to serve new development, (3) the monies collected or to be collected in the trust fund have been and are expected to be spent for improvements of the type for which such fees were paid, and (4) that such improvements will benefit those developments for which the fees were paid.

9-3-2.10. Appeals.

Any determination made by any official of the city charged with the administration of any part of this ordinance may be appealed to the board of directors by filing with the city clerk within ten (10) days of the date of the determination being appealed: (1) a written notice of appeal on a form provided by the city, (2) a written explanation of why the appellant feels that a determination was in error, and (3) an appeal fee established by the city, if any. The board of directors shall promptly fix a time and place for hearing the appeal, and the city clerk shall mail notice of the hearing to the appellant at the address given in the notice of appeal. The hearing shall be conducted at the time and place stated in such notice given by the board of directors. The determination of the board of directors shall be final.

9-3-2.11. Capital plan and level of service standards.

(a) *Plan adoption.* The capital wastewater facilities to be financed by the wastewater impact fees shall be those facilities identified in the capital plan and level of service standards as presented in the study prepared by *economists.com* and NRS Consulting Engineers, entitled "Wastewater Impact Fee Study" dated May 2004. In this regard, the applicable sections of said study are hereby adopted as the official capital plan and level of service for the city of Hot Springs, Arkansas, wastewater system.

(b) *Plan revisions.* Provided, further, that said plan and standards may be revised from time to time by resolution of the board of directors. To this end, at least once during each fiscal year of the city, the city manager or his/her designee shall present to the board of directors a proposed capital improvements program for the city capital wastewater facilities, and such capital improvements program shall assign monies from the trust fund to specific projects and related expenses for capital wastewater facilities. Any monies, including any accrued interest not assigned to specific projects within such capital improvements program and not expended, shall be retained in the trust fund until the next fiscal year.

9-3-2.12. Penalty.

The penalty for violation of this ordinance shall, upon conviction in the Hot Springs District Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors.

9-3-2.13. Severability.

That the provisions of this ordinance are separable and if a section, phrase or provision shall be declared invalid, such declaration shall not affect the validity of the remainder of this ordinance.

(Ord. No. 5275, §§ 1-3, 6-21-04)

9-3-3. Reserved.

9-3-4. Sewer backwater damage claims - Policy.

That from and after July 1, 1999, the city of Hot Springs will not consider any claims for damages caused by wastewater backwater conditions where the installation of a backwater protection device would have prevented such damage. Provided, further, that notice of this policy shall be given by mail to the address of all properties suspected of being subject to backwater damage. (Res. No. 4139, 3-1-99)

Editor's note*- §9-3-4 was adopted by Resolution but included in the Code of Ordinances due to its permanent nature.*

9-3-5. Compost facility - Commercial disposal.

(a) The disposal of brush, yard waste, leaves, tree trimmings and similar materials from all commercial haulers, landscapers, tree trimmers and similar commercial operations shall be permitted during periods of time when the compost facility is in need of materials. The facility manager shall determine the need for additional material on a weekly basis and post notification as to the ability to receive commercial materials at the facility entrance. Every attempt shall be made to provide a schedule to the public regarding the ability to accept commercial materials; however, the facility manager reserves the right to change the status of material acceptance without advanced notice.

(b) A fee of $10.00 per load of grass clippings, brush, leaves, tree trimmings and similar materials shall be collected by the facility at the time material is accepted. A load is defined as any amount of material up to and including 10 yards as determined by the facility manager.

(Res. No. 7284, §§1,2, 11-17-09)

Editor's note*- §9-3-5 was adopted by Resolution but included in the Code of Ordinances due to its permanent nature.*

9-3-6--9-3-9. Reserved.

9-3-10. Water and sewer extension policy.

Cross reference-See § 9-5-1 for sewer line extension policy.

9-3-11. Water/sewer extensions within Mid-America Park-Policy.

Cross reference-See § 9-5-2 for sewer line extension policy.

9-3-12--9-3-29. Reserved.

ARTICLE III. SEWER USE ORDINANCE

9-3-30. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance (article) shall be as follows:

BOD (denoting biochemical oxygen demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20" centigrade, expressed in milligrams per liter.

Building drain shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

Building sewer shall mean the extension from the building drain to the public sewer or other place of disposal.

Combined sewer shall mean a sewer receiving both surface run-off and sewage.

Garbage shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

Industrial wastes shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

Natural outlet shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

Person shall mean any individual, firm, company, association, society, corporation or group.

pH shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Properly shredded garbage shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particles greater than one-half inch (1.27 centimeters) in any dimension.

Public sewer shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

Sanitary sewer shall mean a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

Sewage shall mean a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground surface and stormwaters as may be present, or from any other source.

Sewage treatment plant shall mean any arrangement of devices and structures used for treating sewage.

Sewage system shall mean all facilities for collecting, pumping, treating and disposing of sewage.

Sewer shall mean a pipe or conduit for carrying sewage.

Shall is mandatory; "may" is permissive.

Slug shall mean any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more that five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

Storm drain (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

Superintendent shall mean the superintendent of sewage works of the city of Hot Springs, Arkansas, or his authorized deputy, agent or representative.

Suspended solids shall mean solids that float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

Watercourse shall mean a channel in which a flow of water occurs, either continuously or intermittently. (Ord. No. 3109, Art. I, §§ 1-22, 9-13-71)

9-3-31. Use of public sewers required.

(a) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the city of Hot Springs, Arkansas, or in any area under the jurisdiction of said city, any human or animal excrement, garbage or other objectionable waste.

(b) It shall be unlawful to discharge to any natural outlet within the city of Hot Springs, Arkansas, or in any area under the jurisdiction of said city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance (article).

(c) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

(d) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the city, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within sixty (60) days after date of official notice to do so, provided, that said public sewer is within three hundred (300) feet of the property line. (Ord. No. 3109, Art. II, §§ 1-4, 9-13-71)

9-3-32. Private sewage disposal.

(a) Where a public sanitary or combined sewer is not available under the provisions of Article II, Section 4 (section 9-3-31(d)), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article (section 9-3-32).

(b) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the superintendent. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the superintendent. A permit and inspection fee as shall be established by the Hot Springs sewer committee shall be paid to the city at the time the application is filed.

(c) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within two (2) working days of the receipt of notice by the superintendent.

(d) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the department of public health of the State of Arkansas. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 12,500 square feet on a lot serviced by city water and 20,000 square feet on a lot not serviced by city water. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(e) At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Article IV Section 4 (9-3-32 (d)), a direct connection shall be made to the public sewer in compliance with this ordinance (article), and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

(f) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

(g) No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the health officer.

(h) When a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days and the private sewage disposal system shall be cleaned of sludge and filled with clean bankrun gravel or dirt. (Ord. No. 3109, Art. III, §§ 1-8, 9-13-71)

9-3-33. Building sewers and connection.

(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 superintendent.

(b) There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. A permit and inspection fee as shall be established by the Hot Springs sewer committee for a residential or commercial building sewer permit or an industrial building sewer permit shall be paid to the city at the time the application is filed.

(c) All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city for any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(d) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer.

(e) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this ordinance (article).

(f) The size, slope, alignment, materials or construction of a building sewer, and the methods to be used in excavating, placing of the pipe jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City of Hot Springs and State of Arkansas.

(g) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(h) No person shall make connection of roof downspout, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(i) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(j) The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(k) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city. (Ord. No. 3109, Art. IV, § 1-11, 9-13-71)

9-3-34. Use of public sewers.

(a) No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Provided, however, that the discharge of uncontaminated cooling water into the sanitary sewer from a historic building may be permitted by the Superintendent when the building owner can demonstrate that there is no other viable alternative for the disposal of such discharge. For purposes of this section, a “historic building” is a building listed on the National Register of Historic Places or a building that is a “contributing structure” in a historic district as established by ordinance of the City. (Ord. No. 5511, §1, 12-18-06)

(b) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the superintendent, to a storm sewer, combined sewer or natural outlet.

(c) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(1) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid, or gas.

(2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of 0.05 ppm in the wastes as discharged in the public sewer.

(3) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.

(4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(d) No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes, if it appears likely in the opinion of the superintendent that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant and other pertinent factors. The substances prohibited are:

(1) Any liquid or vapor having a temperature higher than 150 deg. F 65 deg C.

(2) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/1 or containing substances which may solidify or become viscous at temperatures between 32 and 150 deg. F (0 and 65 deg. C).

(3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the superintendent.

(4) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

(5) Any waters or waste containing iron, chromium, copper, zinc and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the superintendent for such materials.

(6) Any waters or wastes containing phenols or other taste or odor producing substances, in such concentration exceeding limits which may be established by the superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other agencies of jurisdiction for such discharge to the receiving waters.

(7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(8) Any waters or wastes having a pH in excess of 9.0.

(9) Materials which exert or cause:

a. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries and limie residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate) .

b. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solution).

c. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

d. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

(10) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(e) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in section 4 of this article (section 9-3-34(d)), and which in the judgment of the superintendent, may have deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the superintendent may:

(1) Reject the wastes.

(2) Require pretreatment to an acceptable condition for discharge to the public sewers.

(3) Require control over the quantities and rates of discharge, and/or;

(4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of section 10 of this article (section 9-3-34(j)).

If the superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the superintendent, and subject to the requirements of all applicable codes, ordinances and laws.

(f) Grease, oil and sand interceptors shall be provided when, in the opinion of the superintendent they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent and shall be located as to be readily and easily accessible for cleaning and inspection.

(g) Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(h) When required by the superintendent the owner of any property serviced by a building sewer carrying industrial wastes, shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the superintendent. 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.

(i) All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this ordinance (article) shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property.

(j) No statement contained in this article (section 9-3-34) 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 therefor, by the industrial concern. (Ord. No. 3109, Art. V, § 1-10, 9-13-71)

9-3-35. Protection from damage.

No unauthorized 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 sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct. (Ord. No. 3109, Art. VI, § 1, 9-13-71)

9-3-36. Powers and authority of inspectors.

(a) The superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this ordinance (article). The superintendent or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(b) While performing the necessary work on private properties referred to in this section, paragraph (a) above, the superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 9-3-34(h)).

(c) The superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easements. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (Ord. No. 3109, Art. VII, §§ 1-3, 9-13-71)

9-3-37. Penalties.

(a) Any person found to be violating any provision of this ordinance (article) except Section 9-3-35, shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall within the period of time stated in such notice, permanently cease all violations.

(b) The penalty for continuation of any violation of this ordinance, beyond the time limit provided for in (a) shall, upon conviction in the Hot Springs Municipal Court or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors. (Ord. No. 4960, § 2, 3-5-01)

(c) Any person violating any of the provisions of this ordinance (article) shall become liable to the city for any expense, loss or damage occasioned the city by reason of such violation. (Ord. No. 3109, Art. VIII, §§ 1, 3, 9-13-71)

9-3-38--9-3-40. Reserved.

ARTICLE IV. INDUSTRIAL WASTEWATER PRETREATMENT CODE

9-3-41. Code adopted.

(a) The following City of Hot Springs Industrial Wastewater Pretreatment Code regulating discharges from industries served by the municipal sewer system and prescribing administration procedures and penalties for violation of said code is hereby adopted by reference as if set out herein word for word.

(b) Any person, firm or corporation violating any of the terms, provisions and regulations of the Hot Springs Industrial Wastewater Pretreatment Code as adopted herein shall be subject to the penalties as stated in said Hot Springs Code.

(c) If any provisions, paragraph, work, section or article of this ordinance or the reference codes are invalidated by any court of competent jurisdiction, the remaining provisions, paragraph, words, sections and chapters shall not be affected and shall continue in full force and effect. (Ord. No. 4577, §§ 1-3, 11-18-96)

Editor's note-Three copies of the Hot Springs Industrial Wastewater Pretreatment Code are on file in the office of the City Clerk for inspection and view by the public, and notice thereof was made by publication on November 21, 1996, in the Sentinel Record (a newspaper of general circulation within the City of Hot Springs, Arkansas)

9-3-42. General provisions.

9-3-42.1. Purpose and policy.

This code sets forth uniform requirements for users of the publicly owned treatment works for the city of Hot Springs and enables the city to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code § 1251 et seq.) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403). The objectives of this code are:

(a) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;

(b) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works;

(c) To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(d) To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;

(e) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the publicly owned treatment works; and

(f) To enable 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 publicly owned treatment works is subject.

This code shall apply to all users of the publicly owned treatment works. The code authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

9-3-42.2. Administration.

Except as otherwise provided herein, the control authority representative shall administer, implement, and enforce the provisions of this code. Any powers granted to or duties imposed upon the control authority representative is hereby delegated by the control authority.

9-3-42.3. Abbreviations.

The following abbreviations, when used in this code, shall have the designated meanings:

*ADEQ- Arkansas Department of Environmental Quality
* BOD - Biochemical Oxygen Demand
*BMP - Best Management Practice
*BMR - Baseline Monitoring Report
* CFR - Code of Federal Regulations
* CIU - Categorical Industrial User
* COD - Chemical Oxygen Demand
* EPA - U.S. Environmental Protection Agency
* gpd - gallons per day
* mg/l - milligrams per liter
* NPDES - National Pollutant Discharge Elimination System
* POTW - Publicly Owned Treatment Works
* RCRA - Resource Conservation and Recovery Act
* SIC - Standard Industrial Classification
*SIU - Significant Industrial User
*SNC - Significant Noncompliance
* TSS - Total Suspended Solids
* U.S.C. - United States Code

9-3-42.4. Definitions.

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this code, shall have the meanings hereinafter designated.

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.

Approval authority. The Director of the Arkansas Department of Environmental Quality is designated as the approval authority.

Authorized representative of the user.

(a) If the user is a corporation:

(1) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(2) The SIU manager of one or more manufacturing, production, or operating facilities, provided the SIU manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the SIU manager in accordance with corporate procedures.

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

(c) 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 their designee.

(d) The individuals described in paragraphs (a) through (c) above may designate another authorized representative if the authorization is in writing, the authorization 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 authorization is submitted to the control authority representative

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° centigrade, usually expressed as a concentration (e.g., mg/l).

Best Management Practice or BMPs means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to implement the prohibitions listed in Section 9-3-43.1(a) and (b) [40 CFR 403.5(a) and (b)]. BMPs 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.

Chemical Oxygen Demand or COD. A measure of oxygen required to oxidize all compounds, both organic and inorganic, in water.

Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by 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.

Control Authority. The City of Hot Springs Governing Entity.

Control Authority Representative. The Control Authority's authorized representative or his designee(s) charged to supervise the operation of the POTW along with certain duties and responsibilities outlined by this code. (Ord. No. 4725, § 2 (a), 4-20-98)

Daily Maximum Limit or Daily Maximum. The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

Environmental Protection Agency (EPA). The U.S. Environmental Protection Agency or, where appropriate, the regional water management division director, or other duly authorized official of said agency.

Existing source. Any source of discharge that is not a "New Source".

Grab sample. A sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

Indirect discharge (or discharge). The introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c),or (d) of the Act.

Instantaneous maximum allowable discharge limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference. A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the city's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Local Limit. Specific discharge limits developed and enforced by the Control Authority upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

Medical waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

Monthly Average. The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

Monthly Average Limit. The highest allowable average of "daily discharges" measured during a calendar month, calculated as the sum of all "daily discharges" measured during that month.

New source.

(a) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(1) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

(2) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(3) The production or wastewater generating processes of the building, structure, facility, or installation are 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 is engaged in the same general type of activity as the existing source, should be considered.

(b) 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 (a)(2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(1) Begun, or caused to begin, as part of a continuous onsite construction program

a. any placement, assembly, or installation of facilities or equipment; or

b. 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

(2) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Noncontact cooling water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Pass through. A discharge which exits the POTW into waters of the State in quantities or concentrations which, along or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit, including an increase in the magnitude or duration of a violation.

Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.

Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, 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, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

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

Pretreatment standards or standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

Prohibited discharge standards or prohibited discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 9-3-43.1 of this code.

Publicly owned treatment works (POTW). A "treatment works," as defined by Section 212 of the Act (33 U.S.C. §1292) which is owned by the city. This definition includes any devices or systems 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. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).

Shall. As used in this Code shall is always mandatory. (Ord. No. 4725, § 1 (b), 4-20-98)

Significant industrial user.

(a) An Industrial User subject to categorical pretreatment standards; or

(b) A user that:

(1) discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);

(2) contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(3) is designated as such by the control authority representative on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

Slug load or slug. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 9-3-43.1 of this code. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violates the POTW's regulation, Local Limits or Permit conditions.

Standard Industrial Classification (SIC) code. A classification pursuant to the *Standard Industrial Classification Manual* issued by the United States Office of Management and Budget.

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

Suspended solids. 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.

User or industrial user. A source of indirect discharge.

Waters of the State. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon any state or any portion thereof.

Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Wastewater treatment plant or treatment plant. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

9-3-43. General sewer use requirements.

9-3-43.1. Prohibited discharge.

(a) General prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(b) Specific prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;

(2) Wastewater having a pH less than 6.0 or more than 11.0, or otherwise causing corrosive structural damage to the POTW or equipment;

(3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference;

(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 greater than 110°F, or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);

(6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

(7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

(8) Trucked or hauled pollutants, except at discharge points designated by the control authority representative in accordance with Section 9-3-44.4 of this code;

(9) 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 or repair;

(10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's NPDES permit;

(11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;

(12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the control authority representative;

(13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;

(14) Medical wastes, except as specifically authorized by the control authority representative in a wastewater discharge permit;

(15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;

(16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;

(17) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 150mg/1;

(18) Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than twenty-five percent (25%) or any single reading over fifty percent (50%) of the Lower Explosive Limit of the meter.

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.

9-3-43.2. National categorical pretreatment standards.

The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

(a) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the control authority representative may impose equivalent concentration or mass limits in accordance with 40 CFR403.6(c).

(b) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the control authority representative shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(c) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(d) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

9-3-43.3. State pretreatment standards. ***[Reserved]***

9-3-43.4. Local limits.

To protect against pass through and/or interference, no Industrial User may discharge or cause to be discharged into the POTW any wastewater pollutant concentration exceeding the Technically Based Local Limits (TBLLs) developed from time to time by the Control Authority Representative of the City of Hot Springs Municipal Utilities as required by the City of Hot Springs NPDES Permit No. AR0033880, authorized by 40 CFR 4032.15(c) and approved by the Approval Authority. TBLLs based on calculated Maximum Allowable Industrial Loadings are located in the City Pretreatment Program. At the discretion of the Control Authority Representative, TBLLs may be imposed and shall apply at the "monitoring point" described in the individual industrial wastewater discharge permits. All concentration limits for metals shall be in terms of "total" metals unless otherwise indicated. At the discretion of the Control Authority Representative, mass limitations may be imposed in addition to or in place of concentration based TBLLs. The Control Authority Representative may also develop Best Management Practices (BMPs) in individual wastewater discharge permits, to implement specific pollutant limitations. Such BMPs shall be considered Local Limits and Pretreatment Standards. When new Local Limits are implemented and/or revised, the Control Authority Representative will provide individual notice to parties who have requested such notice and an opportunity to respond, as set forth by 40 CFR 403.5(c)(3). This requirement of notice also applies when local limits are set on a case-by-case basis.

9-3-43.5. City's right of revision. ***[Reserved]***

9-3-43.6. Dilution.

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The control authority representative may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

9-3-44. Pretreatment of wastewater.

9-3-44.1. Pretreatment facilities.

Users shall provide wastewater treatment as necessary to comply with this code and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section 9-3-43.1 of this code within the time limitations specified by the EPA, the state, or the control authority representative for review, and shall be acceptable to the control authority representative before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under the provisions of this code.

9-3-44.2. Additional pretreatment measures.

(a) Whenever deemed necessary, the control authority representative 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 wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this code.

(b) The control authority representative may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(c) Grease, oil, and sand interceptors shall be provided when, in the opinion of the control authority representative, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, 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 control authority representative 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 their expense.

(d) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

9-3-44.3. Accidental discharge/slug control plans.

The control authority representative shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The control authority representative may require any user to develop, submit for approval, and implement such a plan. Alternatively, the control authority representative may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

(a) Description of discharge practices, including nonroutine batch discharges;

(b) Description of stored chemicals;

(c) Procedures for immediately notifying the control authority representative of any accidental or slug discharge, as required by Section 9-3-47.6 of this code; and

(d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures 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.

9-3-44.4. Hauled wastewater.

(a) Septic tank waste may be introduced into the POTW only at locations designated by the control authority representative, and at such times as are established by the control authority representative. Such waste shall not violate Section 9-3-43 of this code or any other requirements established by the city. The control authority representative may require septic tank waste haulers to obtain wastewater discharge permits.

(b) The control authority representative shall require haulers of industrial waste to obtain wastewater discharge permits. The control authority representative may require generators of hauled industrial waste to obtain wastewater discharge permits. The control authority representative also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this code.

(c) Industrial waste haulers may discharge loads only at locations designated by the control authority representative. No load may be discharged without prior consent of the control authority representative. The control authority representative may collect samples of each hauled load to ensure compliance with applicable standards. The control authority representative may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, 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 hazardous wastes.

9-3-45. Wastewater discharge permit application.

9-3-45.1. Wastewater analysis.

When requested by the control authority representative, a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The control authority representative is authorized to prepare a form for this purpose and may periodically require users to update this information.

9-3-45.2. Wastewater discharge permit requirement.

(a) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the control authority representative, except that a significant industrial user that has filed a timely application pursuant to Section 9-3-45.3 of this code may continue to discharge for the time period specified therein.

(b) The control authority representative may require other users to obtain wastewater discharge permits as necessary to carry out the out the purposes of this code.

(c) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this code and subjects the wastewater discharge permittee to the sanctions set out in Sections 9-3-51 through 9-3-53 of this code. Obtaining a wastewater discharge permit does not relieve a permittee 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.

9-3-45.3. Wastewater discharge permitting: Existing connections. ***[Reserved]***

9-3-45.4. Wastewater discharge permitting: New connections.

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with Section 9-3-45.5 of this code, must be filed at least thirty (30) days prior to the date upon which any discharge will begin or recommence.

9-3-45.5. Wastewater discharge permit application contents.

All users required to obtain a wastewater discharge permit must submit a permit application. The control authority representative may require all users to submit as part of an application the following information:

(a) All information required by Section 9-3-47.1(b) of this code;

(b) Description of activities, facilities, and plant process on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

(c) Number and type of employees, hours of operation, and proposed or actual hours of operation;

(d) Each product produced by type, amount, process or processes, and rate of production;

(e) Type and amount of raw materials processed (average and maximum per day);

(f) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

(g) Time and duration of discharges; and

(h) Any other information as may be deemed necessary by the control authority representative to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

9-3-45.6. Application signatories and certification.

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

9-3-45.7. Wastewater discharge permit decisions.

The control authority representative will evaluate the data furnished by the user and may require additional information. Within thirty (30) days of receipt of a complete wastewater discharge permit application, the control authority representative will determine whether or not to issue a wastewater discharge permit. The control authority representative may deny any application for a wastewater discharge permit.

9-3-46. Wastewater discharge permit issuance process.

9-3-46.1. Wastewater discharge permit duration.

A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the control authority representative. Each wastewater discharge permit will indicate a specific date upon which it will expire.

9-3-46.2. Wastewater discharge permit contents.

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the control authority representative 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 sludge management and disposal, and protect against damage to the POTW.

(a) Wastewater discharge permits shall contain:

(1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;

(2) A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with Section 9-3-46.5 of this code, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(3) Effluent limits, Best Management Practices (BMPs), based on applicable pretreatment standards;

(4) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and

(5) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

(6) Requirements to control Slug Discharge, if determined by the control authority representative to be necessary.

(b) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

(1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

(4) Development and implementation of waste minimization plans;

(5) The unit charge or schedule of user charges and fees;

(6) Requirements for installation and maintenance of inspection and sampling facilities and equipment;

(7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and

(8) Other conditions as deemed appropriate by the control authority to ensure compliance with this code, and state and federal laws, rules, and regulations.

9-3-46.3. Wastewater discharge permit appeals.

The control authority representative shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the control authority representative to reconsider the terms of a wastewater discharge permit within thirty (30) days of notice of its issuance.

(a) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(b) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

(c) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

(d) If the control authority representative fails to act within thirty days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

(e) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the proper court with the proper jurisdiction within the statute of limitations.

9-3-46.4. Wastewater discharge permit modification.

The control authority representative may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(a) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(b) To address significant alterations to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

(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 permitted discharge poses a threat to the city's POTW, city personnel, or the receiving waters;

(e) Violation of any terms or conditions of the wastewater discharge permit;

(f) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(g) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

(h) To correct typographical or other errors in the wastewater discharge permit; or

(i) To reflect a transfer of the facility ownership or operation to a new owner or operator.

9-3-46.5. Wastewater discharge permit transfer.

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the control authority representative and the control authority representative approves the wastewater discharge permit transfer. The notice to the control authority representative shall include a written certification by the new owner 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 wastewater discharge permit. Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

9-3-46.6. Wastewater discharge permit revocation.

The control authority representative may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(a) Failure to notify the control authority representative of significant changes to the wastewater prior to the changed discharge;

(b) Failure to provide prior notification to the control authority representative of changed conditions pursuant to Section 9-3-47.5 of this code;

(c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(d) Falsifying self-monitoring reports;

(e) Tampering with monitoring equipment;

(f) Refusing to allow the control authority representative timely access to the facility premises and records.

(g) Failure to meet effluent limitations;

(h) Failure to pay fines;

(i) Failure to pay sewer charges;

(j) Failure to meet compliance schedules;

(k) Failure to complete a wastewater survey or the wastewater discharge permit application;

(l) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

(m) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this code.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

9-3-46.7. Wastewater discharge permit reissuance.

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 9-3-45.5 of this code, a minimum of sixty (60) days prior to the expiration of the user's existing wastewater discharge permit.

9-3-46.8. Regulation of waste received from other jurisdictions.

(a) If another municipality, or user located within another municipality, contributes wastewater to the POTW, the control authority shall enter into an intermunicipal agreement with the contributing municipality.

(b) Prior to entering into an agreement required by paragraph (a) above, the control authority representative shall request the following information from the contributing municipality:

(1) A description of the quality; and volume of wastewater discharged to the POTW by the contributing municipality;

(2) An inventory of all users located within the contributing municipality that are discharging to the POTW; and

(3) Such other information as the control authority may deem necessary.

(c) An intermunicipal agreement, as required by paragraph (a) above, shall contain the following conditions:

(1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this code and local limits which are at least as stringent as those set out in Section 9-3-43.4 of this code. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the city's ordinance or local limits;

(2) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;

(3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the control authority; and which of these activities will be conducted jointly by the contributing municipality and the control authority;

(4) A requirement for the contributing municipality to provide the control authority with access to all information that the contributing municipality obtains as part of its pretreatment activities;

(5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;

(6) Requirements for monitoring the contributing municipality's discharge;

(7) A provision ensuring the control authority access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the control authority; and

(8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

9-3-47. Reporting requirements.

9-3-47.1. Baseline monitoring reports.

(a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharged to the POTW shall submit to the control authority a report which contains the information listed in paragraph (b), below. At least ninety(90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the control authority representative a report which contains the information listed in paragraph (b), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below.

(1) Identifying Information. The name and address of the facility, including the name of the operator and owner.

(2) Environmental Permits. A list of any environmental control permits held by or for the facility.

(3) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(4) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

5) Measurement of Pollutants.

a. The categorical pretreatment standards applicable to each regulated process.

b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the control authority representative, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 9-3-47.10 of this code.

c. Sampling must be performed in accordance with procedures set out in Section 9-3-47.11 of this code.

(6) Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 9-3-47.2 of this code.

(8) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Section 9-3-45.6 of this code.

9-3-47.2. Compliance schedule progress reports.

The following conditions shall apply to the compliance schedule required by Section 9-3-47.1(b)(7) of this code.

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(b) No increment referral to above shall exceed nine (9) months;

(c) The user shall submit a progress report to the control authority representative no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(d) In no event shall more than nine (9) months elapse between such progress reports to the control authority representative.

9-3-47.3. Reports on compliance with categorical pretreatment standard deadline.

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the control authority representative a report containing the information described in Section 9-3-47.1(b)(4-6) of this code. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 9-3-45.6 of this code.

9-3-47.4. Periodic compliance reports.

(a) All significant industrial users shall, at a frequency determined by the control authority representative but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the control authority representative or Pretreatment Standard necessary to determine compliance status of the user. All periodic compliance reports must be signed and certified in accordance with Section 9-3-45.6 of this code.

(b) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(c) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the control authority representative, using the procedures prescribed in Section 9-3-47.11 of this code, the results of this monitoring shall be included in the report.

.9-3-47.5. Reports of changed conditions.

Each user must notify the control authority representative of any planned significant changes to the user's operations or system which might alter the nature, qualify, or volume of its wastewater at least thirty (30) days before the change.

(a) The control authority representative may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 9-3-45.5 of this code.

(b) The control authority representative may issue a wastewater discharge permit under Section 9-3-45.7 of this code or modify an existing wastewater discharge permit under Section 9-3-46.4 of this code in response to changed conditions or anticipated changed conditions.

(c) For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

9-3-47.6. Reports of potential problems.

(a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the control authority representative of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the control authority representative, submit a detailed written report describing the cause(s) 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, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this code.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph (a) above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

(d) Significant Industrial Users are required to notify the control authority representative immediately of any changes at its facility affecting the potential for Slug Discharge.

9-3-47.7. Reports from unpermitted users.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the control authority representative as the control authority representative may require.

9-3-47.8. Notice of violation/repeat sampling and reporting.

If sampling performed by a user indicates a violation, the user must notify the control authority representative within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority representative within thirty (30) days after becoming aware of the violation. The user is not required to resample if the control authority representative monitors at the user's facility at least once a month, or if the control authority representative samples between the user's initial sampling and when the user receives the results of this sampling.

9-3-47.9. Notification of the discharge of hazardous waste.

(a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 9-3-47.5 of this code. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of Sections 9-3-47.1, 9-3-47.3, and 9-3-47.4 of this code.

(b) Dischargers are exempt from the requirements of paragraph (a) above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the control authority representative, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this section, the 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.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this code, a permit issued thereunder, or any applicable federal or state law.

9-3-47.10. Analytical requirements.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by ADEQ.

9-3-47.11. Sample collection.

(a) Except as indicated in Sections (b) and (c) below, the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the control authority representative. Where time-proportional composite sampling or grab sampling is authorized by the control authority representative, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols and sulfides, the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the control authority representative as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

(b) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring and 90 day compliance reports required in Sections 9.3.47.1 and 9-3-47.3 [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the control authority representative may authorize a lower minimum. For the reports required by paragraphs Section 9-3-47.3 [40 CFR 403.12(e) and 403.12(h)], the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

9-3-47.12. Timing.

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

9-3-47.13. Record keeping.

Users subject to the reporting requirements of this code shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this code and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements and documentation associated with Best Management Practices established under Section 9-3-43.4. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; 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 the city or where the user has been specifically notified of a longer retention period by the control authority representative.

9-3-48. Compliance monitoring.

9-3-48.1. Right of entry - Inspection and sampling.

The control authority representative shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this code and any wastewater discharge permit or order issued hereunder. Users shall allow the control authority representative 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 guards so that, upon presentation of suitable identification, the control authority representative will be permitted to enter without delay for the purposes of performing specific responsibilities.

(b) The control authority representative 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 operations.

(c) The control authority representative may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy.

(d) 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 control authority representative and shall not be replaced. The costs of clearing such access shall be born by the user.

(e) Unreasonable delays in allowing the control authority representative access to the user's premises shall be a violation of this code.

9-3-48.2. Search warrants.

If the control authority representative 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 a violation of this code, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this code or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the control authority representative may seek issuance of a search warrant from the proper court of the city.

9-3-49. Confidential information.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the control authority representative's 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 control authority representative, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. 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 NPDES 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 2.302 will not be recognized as confidential information and will be available to the public without restriction.

9-3-50. Publication of users in significant noncompliance.

The control authority representative shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6)-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits defined in Section 9-3-43.1;

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by Section 9-3-43.1 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(c) Any other violation of the pretreatment standard or requirement as defined by Section 9-3-43.1 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the control authority representative determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

(d) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the control authority representative's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(g) Failure to accurately report noncompliance; or

(h) Any other violation(s) which the control authority representative determines will adversely affect the operation or implementation of the local pretreatment program.

9-3-51. Administrative enforcement remedies.

9-3-51.1. Notification of violation.

When the control authority representative finds that a user has violated, or continues to violate, any provision of this code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the control authority representative may serve upon that user a written notice of violation. Within thirty (30) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the control authority representative. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the control authority representative to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

9-3-51.2. Consent orders.

The control authority representative may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 9-3-51.4 and 9-3-51.5 of this code and shall be judicially enforceable.

9-3-51.3. Show cause hearing.

The control authority representative may order a user which has violated, or continues to violate, any provision of this code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the control authority representative 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 meeting, 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 meeting shall be served personally or by registered or certified mail (return receipt requested) at least fifteen (15) 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.

9-3-51.4. Compliance orders.

When the control authority representative finds that a user has violated, or continues to violate, any provision of this code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the control authority representative may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

9-3-51.5. Cease and desist orders.

When the control authority representative finds that a user has violated, or continues to violate, any provisions of this code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the control authority representative may issue an order to the user directing it to cease and desist all such violations 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 violation, 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.

9-3-51.6. Administrative fines.

(a) When the control authority representative finds that a user has violated, or continues to violate, any provision of this code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the control authority representative may fine such user in an amount not to exceed $1,000.00. Such fines shall be assessed on a per violation, 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 violation.

(b) A lien against the user's property will be sought for unpaid charges, fines, and penalties.

(c) Users desiring to dispute such fines must file a written request for the control authority representative to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the control authority representative may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The control authority representative 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.

9-3-51.7. Emergency suspensions.

The control authority representative may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The control authority representative 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 control authority representative may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The control authority representative may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the control authority representative that the period of endangerment has passed, unless the termination proceedings in Section 9-3-51.8 of this code 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 control authority representative prior to the date of any show cause or termination hearing under Sections 9-3-51.3 or 9-3-51.8 of this code.

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

9-3-51.8. Termination of discharge.

In addition to the provisions in Section 9-3-46.6 of this code, any user who violates the following conditions is subject to discharge termination.

(a) Violation of wastewater discharge permit conditions;

(b) Failure to accurately report the wastewater constituents and characteristics of its discharge;

(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 inspection, monitoring, or sampling; or

(e) Violation of the pretreatment standards in Section 9-3-43 of this code.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 9-3-51.3 of this code why the proposed action should not be taken. Exercise of this option by the control authority representative shall not be a bar to, or a prerequisite for, taking any other action against the user.

9-3-52. Judicial enforcement remedies.

9-3-52.1. Injunctive relief.

When the control authority representative finds that a user has violated, or continues to violate, any provision of this code, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the control authority representative may petition the proper court through the city’s attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this code on activities of the user. The control authority representative 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.

9-3-52.2. Civil penalties.

(a) A user who has violated, or continues to violate, any provision of this code, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of $1,000.00 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 control authority 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 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.

9-3-52.3. Criminal prosecution.

(a) A user who willfully or negligently violates any provision of this code, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than $1,000.00 per violation, per day.

(b) A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, by guilty of a misdemeanor and be subject to a penalty of at least $1,000.00. 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 code, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this code shall, upon conviction, be punished by a fine of not more than $1,000.00 per violation, per day.

(d) In the event of a second conviction, a user shall be punished by a fine of not more than $1,000.00 per violation, per day.

9-3-52.4. Remedies nonexclusive.

The remedies provided for in this code are not exclusive. The control authority representative 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. However, the control authority representative may take other action against any user when the circumstances warrant. Further, the control authority representative may take other action against any user when the circumstances warrant. Further, the control authority representative is empowered to take more than one enforcement action against any noncompliant user.

9-3-53. Affirmative defenses to discharge violators.

9-3-53.1. Upset.

(a) For the purpose of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance 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 noncompliance with categorical 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 users 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 compliance with applicable operation and maintenance procedures; and

(3) The user has submitted the following information to the control authority representative 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) days:

a. A description of the indirect discharge and cause of noncompliance;

b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(d) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(e) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(f) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical 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.

9-3-53.2. Prohibited discharge standards.

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 9-3-43.1(a) of this code or the specific prohibitions of this code if it 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 limit 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 NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

9-3-53.3. Bypass.

(a) For the purposes of this section,

(1) “Bypass” means the intentional diversion of wastewater from any portion of a user’s treatment facility.

(2) “Severe property damage” means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonable 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 pretreatment standards or requirements to be violated, 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 control authority representative, at least ten (l0) days before the date of the bypass, if possible.

(2) A user shall submit oral notice to the control authority representative 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) 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 time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The control authority representative 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 control authority representative may take an enforcement action against a user for a bypass, unless

a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

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 control authority representative may approve an anticipated bypass, after considering its adverse effects, if the control authority representative determines that it will meet the three conditions listed in paragraph (d)(1) of this section.

(Ord. No. 4577, §§ 1-3, 11-18-96; Ord. No. 4725, § 1, 4-20-98; Ord. No. 5837, §1,9-6-2011)

9-3-54–9-3-60. Reserved

ARTICLE V. HOT SPRINGS GREASE TRAP REGULATIONS

DIVISION 1. GENERAL PROVISIONS

9-3-61. Short title.

This ordinance shall be referred to as the "Hot Springs Grease Trap Ordinance."

9-3-62. Purpose and policy.

(a) This ordinance is established to prevent the discharge of fats, oil and grease (FOG), oil, flammable substances and other harmful wastes into the collection system and wastewater treatment facility of the City of Hot Springs Municipal Utilities by requiring the user to provide a device to intercept and treat these wastes, and to set forth uniform requirements for the installation and maintenance of oil and grease traps, interceptors and separators.

(b) The purpose of this ordinance is:

(1) To prevent the introduction of wastewater containing fats, oil and grease in the amounts which may cause stoppages or obstruction of flow, or in any other way prevent or inhibit operation of the City of Hot Springs Municipal Utilities' collection system and wastewater treatment facility.

(2) To prevent the introduction of pollutants into the collection system which may be incompatible with other waste streams.

(3) To enable the City of Hot Springs to comply with National Pollutant Discharge Elimination System (NPDES) permit conditions, sludge disposal conditions, sludge use and disposal requirements, and any other federal or state laws which the Publicly Owned Treatment Works (POTW) is subject to.

(4) To protect the environment and health, safety and welfare of the public by regulating the pretreatment, transport and disposal of liquid waste.

9-3-63. Specialized definitions.

For the purpose of this ordinance, the following words and terms shall have the following meanings:

ASME shall mean American Society of Mechanical Engineer.

ASTM shall mean American Standard Testing Materials.

Catch Basin shall mean a chamber or trench which admits drainage from a surface in a sewer drain.

Certified shall mean test to national standards.

Control Authority shall mean the City Manager or his/her designee charged with the responsibility for administration and enforcement of this ordinance.

Control Manhole shall mean a manhole installed in the building sewer specifically designed to facilitate sampling of the wastewater discharge.

Grease Recovery Device (GRD) shall mean a receptacle designed to collect and retain fats, oil and grease and similar waste normally found in the kitchen. A device installed in the drainage system between the kitchen or other point of production of the waste and building sewer.

Grease Trap or Trap shall mean a receptacle designed to collect and retain grease and fatty substances and similar waste normally found in the kitchen. A grease trap installed in the drainage system between the kitchen or other point of production of the waste and building sewer.

Hold-Haul Tank shall mean a receptacle designed to hold objectionable waste that is prohibited from being discharged into the collection system, the contents of which must be hauled to a disposal site. A hold-haul tank shall not be connected to the collection system.

Incompatible Waste shall mean waste which has different processing, storage or disposal requirements.

Interceptor shall mean a receptacle designed and constructed to intercept, separate and prevent passage of and/or other objectionable solids into the collection system to which it is connected. An interceptor may be integrated with a separator for vehicle wash bays or repair areas.

PDIG shall mean Plumbing & Drain Institute Guidelines.

POTW shall mean Publicly Owned Treatment Works operated and maintained by the City of Hot Springs Municipal Sewer System.

Separator shall mean a receptacle designed to remove oil and grease from wastewater by separation, usually by simple flotation or by chemical addition where the oils or greases are soluble or emulsified.

DIVISION II. GENERAL REQUIREMENTS

9-3-64. Applicability.

(a) This ordinance applies to all users of the City's Publicly Owned Treatment Works (POTW) whether the user discharges to the Publicly Owned Treatment Works (POTW's) collection system or transports the waste or has the waste transported to the Publicly Owned Treatment Works (POTW's) wastewater treatment facility for transfer or disposal or whether such user has been issued a permit.

(b) The following types of establishments may be exempt from the requirements of this ordinance:

(1) Private living quarters;

(2) Bars and clubs serving drinks where no food is prepared;

(3) Snow cone and shaved ice stands, provided no other type of food is prepared;

(4) Grocery stores without food preparation (grocery stores with delicatessens, bakeries, meat packing, butchering process, etc., are not exempt)

(5) Day care centers that primarily serve microwaved dishes, using single service items;

(6) Confectionery stores which exclusively sell unpackaged sweets, confection, nuts, ice cream, yogurt and variety food items;

(7) Produce markets;

(8) Mobile food establishments in a vehicle or trailer designed to be easily movable and not discharging to the collection system.

9-3-65. Prohibited discharges.

(a) The user shall not discharge, or cause to be discharged, plastics, paper, non-biodegradable oils or other non-biodegradable materials.

(b) The user shall not discharge, or cause to be discharged, fats, oil, and grease to any drains or traps. Such waste should be placed in a container specifically designed to hold such waste and either utilized by industry or disposed at suitable locations.

(c) No person shall discharge, or cause to be discharged, in the collection system or treatment facility, any transported waste having a pH less than 6.0 s.u. and greater than 11.0 s.u.

9-3-66. Pretreatment of waste.

(a) Grease traps, interceptors, oil separators, or hold-haul tanks shall be provided for the proper handling of wastes containing grease, flammable wastes, sand and other ingredients, which may be harmful to the building drainage system, the collection system or the wastewater treatment facility.

(1) Any establishment not specifically exempt by this ordinance or other provisions outlined in the sewer use ordinance which prepares food for on-site or off-site consumption shall be equipped with adequately sized grease traps.

(2) Vehicle wash facilities, wash bays, including hand wash bays, in service stations, or other facilities, and similar installations shall be equipped with oil separators and interceptors and shall discharge to the collection system. These facilities shall be protected from rainwater run on and run off. Drainage from areas exposed to rainwater run off shall not be discharged to the collection system.

(3) Floor cleaning wash water from areas such as described above shall be excluded from the collection system except where pre-treated to within the specification of this ordinance or any other provision in the sewer use ordinance.

(4) Disposal records shall be maintained for materials removed from hold haul tanks. Such records shall be made available to the control authority for inspection and copying upon request or demand.

(b) Grease traps, interceptors, separators, and hold haul tanks shall be constructed and maintained in accordance with this ordinance and other applicable provisions outlined in the sewer use ordinance. Grease traps, interceptors, separators, and grease recovery devices shall meet national Plumbing & Drain Institute Guidelines (PDIG-101) or American Society of Mechanical Engineering (ASME-14.3.00 or 14.4.01) standards.

(c) Steam cleaning and chemical cleaning facilities shall not discharge to the collection system unless the facility provides a process that will consistently produce an effluent that is in compliance with this ordinance and other applicable provisions outlined in the sewer use ordinance, particularly with regard to grease, oils, organics, and other chemicals.

(d) Where pretreatment or flow equalization facilities are provided for any water or waste, these facilities shall maintain a satisfactory and effective operation by the owner at his expense.

9-3-67. Control equipment.

(a) The control authority may require any non-domestic user to install monitoring equipment as necessary. Sampling and other monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at his own expense.

(b) The user shall install a suitable control manhole or sampling port in the building sewer to facilitate observation, sampling, and measurement of the waste and flow. Such manholes or sampling ports shall be readily accessible to the control authority at all times.

(1) Control manholes or sampling ports shall be easily accessible, safely located and shall be constructed in accordance with plans approved by the control authority prior to use.

(2) Appropriate control manholes or sampling ports shall be installed in the building sewer immediately downstream of the grease trap, interceptor, separator, or grease recovery device.

(3) The sampling port shall have a top opening of not less than twenty-four (24) inches, with an open pipe not less than four (4) inches in diameter and twelve (12) inches in length.

(4) Control manholes shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

(5) Control manholes shall be constructed to exclude entry and exit of waters not discharged through the building sewer (to prevent infiltration/inflow and exfiltration exflow).

9-3-68. Monitoring requirements.

(a) Where required by any permit or otherwise ordered by the control authority, the non-domestic user shall obtain representative samples of the facility's wastewater discharge or proposed discharge for analysis. Specified analysis shall be conducted no less frequently than as outlined in the permit, order, or other documents issued by the control authority.

(1) Representative sample shall mean a twenty-four (24) composite sample consisting of at least twelve parts where the discharge is continuous. That sample shall be representative of all discharges occurring in a twenty-four (24) hour period. Grab samples shall be collected for parameters determined by the control authority.

(2) A state approved laboratory using 40 CFR 136 lab methods or EPA approved standard methods shall conduct analysis.

(3) Analysis may be conducted by qualified personnel on-site utilizing 40 CFR 136 lab methods or EPA approved standard methods. In-house laboratories conducting monitoring for compliance shall be subject to the same requirements as commercial or contract laboratories.

(4) All costs of self-monitoring shall be borne by the user.

(b) The control authority may randomly sample and analyze the discharge from any non-domestic user and conduct surveillance activities in order to identify, independent of information supplied by the user, occasional and continuing compliance or non-compliance with this ordinance and other provisions outlined in the sewer use ordinance.

(c) The control authority may conduct sampling analysis of the discharge of any non-domestic user where deemed necessary to assure compliance with this ordinance or any other provisions in the sewer use ordinance.

9-3-69. Record-keeping requirements.

(a) Any user subject to reporting requirements established in this ordinance shall retain records of all wastewater-related data for a period of three (3) years.

(1) The user shall, upon request or demand, make available for inspection and copying by the control authority, all records of information obtained pursuant to any monitoring activities required by this ordinance and any records of information obtained pursuant to monitoring activities undertaken by the user.

(2) Periods of retention shall be automatically extended for the duration of any litigation concerning the user or the city or where the user has been specifically notified of a longer retention time by the control authority.

(b) The non-domestic user shall maintain records of inspection, pumping and cleaning, other maintenance activities of grease traps, interceptors, separators or grease recovery device for a minimum of three (3) years. These records shall be made available to the control authority upon request or demand for inspection and copying.

(1) Inspection records shall contain, at a minimum, the date the facility was inspected, who inspected the facility, the specific conditions of the piping and other structures of the facility, and a description of any repairs recommended and made to the facility.

(2) Pumping and cleaning records shall include at a minimum, the date the facility was cleaned, who cleaned the facility, what type and amount of material were removed, who disposed the removed materials, the disposal site for the removed materials, and any other information required by federal, state, or local regulations governing such operations.

(3) Repair and maintenance records shall include a description of the maintenance or repair, the date of the maintenance or repair, and who performed the maintenance or repair. All repairs shall be made by a licensed plumber.

(c) The user shall document cleaning of building sewer lines made necessary by excessive grease buildup. These records shall contain, at a minimum, the date and by whom the lines were cleaned, known suspected cause of the buildup, and action taken to prevent recurrence.

DIVISION III. GREASE TRAPS, INTERCEPTORS, SEPARATORS AND GREASE RECOVERY DEVICES

9-3-70. Applicability.

This section shall apply to facilities whose waste discharge contain or may contain fats, oil and grease, sand and/or other harmful ingredients.

9-3-71. Grease traps, interceptors, separators and grease recovery devices required.

(a) Grease traps, interceptors, separators, grease recovery devices or hold haul tanks shall be provided for the proper handling of wastes containing grease, oil, sand, and other harmful ingredients.

(b) All restaurants, institutions, cafeterias or other establishments preparing or serving food, except those specifically exempted, shall be required to install and maintain a certified grease trap, interceptor, separator or grease recovery device for the efficient removal of oil and grease from the waste stream. The design and installation of such devices shall be subject to review by the control authority.

(c) All vehicle wash areas shall be equipped with interceptors and oil separators for the removal of oil and grease from the waste stream. The design and installation of such devices shall be subject to review by the control authority.

9-3-72. General specifications.

(a) Specifications outlined in this section shall be considered minimum requirements only. It shall be the responsibility of each user to have a grease trap, interceptor, separator or grease recovery device designed and installed that will produce an effluent in compliance with the requirements of this ordinance or other applicable provisions.

(1) Grease traps, interceptors, separators and grease recovery devices shall meet or exceed the specifications and requirements set forth in this ordinance and other applicable provisions of the sewer use ordinance.

(2) An existing grease trap, interceptor, separator or grease recovery device which is upgraded or replaced shall meet or exceed the specifications set forth in this ordinance and other applicable provisions in the sewer use ordinance.

(3) Where a non-domestic user is required under this ordinance to have a grease trap, interceptor, or separator, and who will occupy an existing building, the grease trap, interceptor, or separator shall meet or exceed the requirements of this ordinance and other applicable provisions of the sewer use ordinance.

(b) Grease traps, interceptors, separators and grease recovery devices will be constructed of imperious materials capable of withstanding abrupt and extreme changes in temperature and capable of withstanding the traffic load where installed.

(c) Grease traps, interceptors, separators and grease recovery devices shall be installed outside the building wherever possible. Where it is impossible to locate a grease trap outside the building, the trap shall be located in a mechanical room or other area where no food is stored or processed.

(d) Grease traps, interceptors, separators and grease recovery devices shall be located so as to be readily and easily accessible for cleaning and inspection and shall be equipped with easily removable grates or covers.

(1) A manhole ring and cover not less than twenty-four (24) inches in diameter shall be installed in the lid of each compartment to facilitate easy access for cleaning and inspection. The cover shall be at or near, but not below, the finishing grade.

(2) Where an interceptor, separator or grease recovery device is located inside a vehicle wash bay, the first chamber shall be preceded by a grated catch basin with holes not greater than one-half (½) inch in diameter or shall be equipped with a grated cover with holes not greater than one-half (½) inch in diameter. The cover on the secondary chamber shall be water tight.

(e) Grease traps, interceptors, separators and grease recovery device shall have a total capacity of not less than five hundred (500) gallons and shall be constructed within a minimum of two (2) compartments.

(1) The first compartment shall have a detention time not less than fifteen (15) minutes.

(2) The second compartment shall have a detention time not less than five (5) minutes.

(f) Plans for new grease traps, interceptors, separators and grease recovery devices or modifications to existing grease traps, interceptors, separators and grease recovery device shall be submitted to the control authority for review. Calculations used to determine adequate size shall be included in the submittal.

(g) Grease traps, interceptors, separators and grease recovery devices shall be installed by a licensed plumber. Completed grease traps, interceptors, separators and grease recovery devices shall be subject to inspection by the control authority prior to connection to the collection system.

9-3-73. Grease trap, separator, interceptor and grease recovery device specifications.

(a) All liquid waste lines in food preparation and dishwashing areas, except lines from rest room facilities and cooling unit condensate, ice maker, and soft drink dispenser drain lines, shall discharge through a grease trap. Garbage disposals shall have a filtering device installed that will prevent food solids from entering the grease trap.

(b) The minimum size of grease traps, separators, interceptors or grease recovery devices shall be sized according to the number of fixtures draining to the grease trap, separator, interceptor or grease recovery device.

(1) The total number of fixture units multiplied by 100 gallons shall determine the minimum total capacity of the trap. The primary (first) chamber shall occupy three-quarters (3/4) of the total capacity of the trap.

(2) All fixtures shall be defined in accordance with applicable provisions outlined in code compliance regulations.

(c) Grease traps, separators, interceptors or grease recovery devices shall be equipped with double clean outs in both in fluent and effluent pipes (before and after the trap). Sampling port shall be located on the effluent side of grease trap, separator, interceptor or grease recovery device.

(d) The flow into each chamber shall enter below the static water line.

(1) The in fluent line shall be located between twelve (12) and eighteen (18) inches from the bottom of the first chamber.

(2) The discharge from the first chamber shall be between twelve (12) and eighteen (18) inches from the bottom of the first chamber and shall terminate in the second chamber not less than six (6) inches below the static water line.

(3) The effluent line shall be located not more than twelve (12) inches from the bottom of the second chamber.

9-3-74. Interceptor and separator specifications for wash bays.

(a) Automatic car or truck washes, hand wash bays and other areas where vehicles are washed shall be equipped with a two-stage interceptor and a separator. The primary (first) chamber shall occupy three-quarters (3/4) of the total capacity.

(1) The interceptor and separator may be as separate units or integrated.

(2) Interceptors/separators located inside the wash bay shall be equipped with a grated cover on the first chamber and a solid, water tight cover on the second chamber. The grated cover opening shall be no larger than one-half (½) inch in diameter and shall be easily removable for cleaning and inspection.

(3) Interceptors/separators located outside the wash bay shall be equipped with a grated cover on the first chamber and a solid, water tight cover on the second chamber. The grated cover opening shall be no larger than one-half (½) inch in diameter and shall be easily removable for cleaning and inspection.

(b) Automatic wash bays (those having high pressure spray wands and brushes) shall be equipped with an interceptor and oil separator sized according to the following:

Description	Minimum Size
Single hand wash bay	500 gallons
2-4 hand wash bays	1000 gallons
>4 hand wash bays	1000 gallons + 200 gals per bay over 4
Drive through wash	500 gallons per bay

(c) Manual wash bays shall be equipped with a minimum five hundred (500) gallon interceptor and separator.

(d) The flow into each chamber shall enter below the static water line.

(1) The influent line shall be located between twenty-four (24) and thirty (30) inches from the bottom of the first chamber (except where the first chamber is a grated cover).

(2) The discharge from the first chamber shall be between twenty-four (24) and (30) inches from the bottom of the first chamber and shall terminate in the second chamber not less than six inches below the static water line.

(3) The effluent line shall be located not more than twelve (12) inches from the bottom of the second chamber.

9-3-75. Operation and maintenance.

(a) Grease traps, interceptors, separators and grease recovery devices shall be maintained in continuously efficient operation by the owner or occupant at his own expense.

(b) Areas surrounding grease traps, interceptors, separators and grease recovery devices shall be maintained to facilitate ready access to the unit for inspection by the control authority at all times.

(c) A user shall not remove down-pipes or otherwise alter a grease trap, interceptor, separator or grease recovery device which may allow oil, grease, sand or other objectionable materials to pass through the device onto the collection system.

(d) A user shall not increase the use of water or in any other way attempt to dilute the waste stream in lieu of adequate treatment.

(e) The use of hot water, emulsifiers, chemical, or other agents or devices that may cause oil, grease, or sand to pass through the collection system or the wastewater treatment facility is prohibited.

(f) Materials shall not be splashed, allowed to overflow, or otherwise placed on the areas surrounding a grease trap, interceptor, or separators. In the event materials are spilled, splashed, overflowed, or otherwise placed on the surrounding area, the owner shall assure the materials are cleaned from the area and properly disposed.

(g) Materials removed from grease traps, interceptors, separators or grease recovery devices shall either be utilized by the industry or disposed of in a suitable manner in accordance with all applicable federal, state, and local regulations.

(h) Where municipal utilities must clean associated public sewers caused by inappropriate operation or maintenance of grease trap, interceptor, separator or grease recovery device cost of such cleaning shall be billed to the user. Other penalties outlined in the sewer use ordinance may be imposed.

9-3-76. Grease trap, separator, interceptor or grease recovery device treatment procedures.

Use of grease trap treatment products, including bacteria designed to digest the grease, is specifically prohibited without prior written consent of the control authority.

(a) Acceptance of such products for use may be considered only where a valid screening test, showing the product's ability to treat the waste and to produce an effluent in compliance with this ordinance, has been performed in accordance with methods that are acceptable to the control authority.

(b) Screening test for grease trap treatment products shall be approved by the control authority.

(c) The results of the screening test shall be subject to review by the control authority.

(d) All screening tests shall be performed by a state approved laboratory utilizing EPA approved procedures.

(e) All costs of screening tests shall be borne by the user.

(f) If a product is accepted for use, the user shall obtain written permission from the control authority to use the product.

(g) The control authority may revoke permission to use such product where the effluent from the trap or basin in which the product is used fails to meet the requirements set forth in this ordinance and any other provision outlined on the sewer use ordinance.

(h) Use of such product shall not relieve the user of the minimum cleaning requirements set forth in this ordinance.

9-3-77. Inspection and cleaning schedules.

(a) Inspection, cleaning, and other necessary maintenance of such facilities shall be conducted as often as needed to assure the discharge is in compliance with the requirements set forth in this ordinance and other provisions of the sewer use ordinance. Written documents shall consist of scheduled routine cleaning and maintenance by an approved pumper and/or plumbing service. These documents shall be presented to the control authority upon demand. The grease trap, interceptor, separator, or grease recovery device shall be cleaned as necessary to assure compliance with this ordinance and other applicable provisions outlined in the sewer use ordinance.

(b) The physical conditions of the grease trap, interceptor, separator or grease recovery device (piping, sidewalls, etc.) shall be inspected by the user each time the facility is cleaned. Repairs, if needed, shall be made prior to further use. Documentation of repairs shall be submitted to the control authority within fifteen (15) days of repairs.

(c) Existing grease traps, interceptors, separators and grease recovery devices shall produce an effluent in compliance with national Plumbing & Drain Institute (PDIG) guidelines and other applicable provisions outlined in the sewer use ordinance at the user's pumping schedule. Schedules inadequate to produce such effluent shall be upgraded to as often as necessary, up to and including daily, or the grease trap, separator, interceptor and grease recovery device shall be upgraded.

(d) A user shall have any grease trap, separator, interceptor or grease recovery device cleaned when ordered to do so by the control authority. Failure or refusal to comply within forty-eight (48) hours after the request or demand shall be cause for the control authority to take further action which may include imposing a fine.

DIVISION IV. SPECIAL CONDITIONS

9-3-78. Written release.

A written release by the control authority shall be given only after the user has met all required grease trap, interceptor and/or oil separator specifications outlined in this ordinance, general sewer use ordinance and other applicable provisions of city code compliance and the health department.

9-3-79. Certificate of occupancy.

A new building shall not be occupied or a change made in the occupancy, nature or use of a building or part of a building until after city code has issued a certificate of occupancy. A certificate shall not be issued until all required grease trap, interceptor and/or oil separator have been inspected for compliance in accordance with specifications outlined in this ordinance, general sewer use ordinance and other applicable provisions of city code compliance and the health department.

9-3-80. Variances.

If the user seeks a variance from the required minimum size, a letter requesting a variance and reasons why must be submitted to the control authority for consideration.

9-3-81. Best available technology.

If lack of space prevents the user from upgrading the grease trap, interceptor, grease recovery device and/or oil separator, the user must increase cleaning frequency or find the best available technology which is subject to control authority approval.

DIVISION V. TRANSPORT OF LIQUID WASTE

9-3-82. Applicability.

(a) This section shall apply to waste haulers that have obtained a wastewater discharge permit from the City of Hot Springs Municipal Utilities.

(b) This section shall apply to the waste haulers that transport waste to the wastewater treatment facility for transfer or disposal.

(c) This section shall apply to separator trucks or other vehicles designed to separate grease from grease waste removed from the grease trap and return liquid to the grease trap.

(1) Separator trucks may operate and shall be subject to this ordinance and other applicable provisions outlined in the sewer use ordinance where the operator provides written documentation from the state which demonstrates the technology sufficiently separates the grease without increasing the organic loading or potential for oil and grease to pass into the collection system.

(2) The liquid waste tank shall be an integral part of the vehicle used to transport the waste. Portable or temporarily-installed containers must meet state criteria.

(3) The tank shall be equipped with a site gauge which is maintained in such a manner so it can be determined whether the vehicle is loaded and the volume in the tank. The gauge or other approved measuring device shall accurately measure the contents of the tank at varying depths of material in the tank. The gauge shall meet all Arkansas Department of Health criteria.

(4) Each tank shall be equipped with a leakproof gate valve, minimum of two and one half (2 ½) inches in diameter and, if needed, a compatible hose of sufficient length and design to facilitate discharge into the designated point without splashing, spraying, or spilling onto the surrounding area.

(5) The discharge valve shall be prominently marked and shall be readily visible and accessible.

(b) The liquid waste transport vehicle shall be prominently marked, in letters not less than two (2) inches in height given unless otherwise stated, with information as follows:

(1) The capacity, in gallons on each side of the tank (four (4) inches minimum height).

(2) The name and telephone number of the firm or owner under which the business is conducted.

(3) The Arkansas Establishment Number, where operated in the State of Arkansas.

(4) Waste hauler permit number issued by the control authority.

(c) Where a state issues a decal or authorization sticker to the registrant, the decal or sticker shall be displayed on the vehicle at all times.

(d) The waste hauler permit number shall be removed from the vehicle when the company is no longer authorized to contribute haul waste to the Publicly Owned Treatment Works (POTW).

9-3-83. Inspection of liquid waste transport vehicles.

(a) Where the liquid waste transport vehicle must pass a state inspection for liquid waste, the control authority may require the submission of a copy of the inspection report.

(b) The control authority reserves the right to inspect any liquid waste transport vehicle at any time as deemed necessary.

(c) The control authority may revoke the permit of any liquid waste transport vehicle not meeting the requirements set forth in this ordinance or any applicable condition. Upon proof the vehicle meets the requirements, the control authority may reinstate the permit or require the industry to submit a new application.

9-3-84. Cleanup of leak and spills.

(a) In the event a discharge or spill of waste during collection or transport, the waste hauler shall take appropriate action to protect human health and the environment. Appropriate action may include notifying local law enforcement and health officials, build an embankment around the discharge area, cleaning up the spill or discharge materials or other action as may be required or approved by federal, state, and local officials having jurisdiction so that the waste no longer presents a public health or environmental problem.

(1) Spills shall be prevented from entering any water supply or water way, including storm sewers.

(2) Spills that enter a water way or otherwise contaminate water way or water supply shall be reported to the appropriate state and local officials.

(b) If a spill, splash, spray, or leak occurs during collection, transport or discharge, the waste hauler shall clean and properly dispose the spilled, splashed, sprayed, or leaked waste at his expense.

(c) Where a spill, splash, spray, or leak occurred during transport or discharge, the owner shall make necessary repairs or modifications to the vehicle prior to subsequent operation of the vehicle.

DIVISION VI. DISPOSAL OF TRANSPORTED LIQUID WASTE

9-3-85. Applicability.

This section shall apply to the transport to and disposal of transported liquid wastes into the collection system and wastewater treatment facility of the City of Hot Springs Municipal Utilities.

9-3-86. Permitting process.

All businesses or industries that desires to discharge transported liquid waste into the collection system or wastewater treatment facility shall be required to go through the permitting process before a discharge permit is granted.

9-3-87. Approval requirements.

Any business or industry, prior to discharging transported liquid waste into the collection system or wastewater treatment facility, shall comply with the requirements of this section before such approval may be granted. Approval shall be granted to those industries or businesses that have met all federal, state, and local requirements for transport of liquid wastes.

(1) All liquid waste hauler vehicles shall possess a valid establishment number issued by the appropriate state authority.

(2) All liquid waste haulers delivering waste to the City of Hot Springs Municipal Utilities wastewater treatment facility or designated discharge point shall possess a valid transporter registration number issued by the appropriate state authority.

9-3-88. Disposal of transported waste.

(a) Transported liquid waste may be discharged to the City of Hot Springs Municipal Utilities wastewater treatment facility or designated point established by the control authority.

(1) All non-domestic waste shall be subject to general and specific requirements established in the pretreatment program and other applicable provisions outlined in the sewer use ordinance.

(2) The control authority may collect samples of each transported waste load to ensure compliance with all applicable standards.

(3) The control authority may require lab analysis to be performed on any and/or every waste load prior to discharge.

(4) Required analysis will be specified in the waste hauler's discharge permit.

(5) The liquid waste may be subject to 'on the spot' pH, temperature, visual and odor testing prior to discharge.

(6) The control authority may sample the liquid waste for other pollutants of concern.

(b) Liquid waste shall not be accepted by the control authority except from waste haulers that are permitted by the control authority.

(c) A completed 'legible' waste hauler manifest form and required documentation shall be presented to and reviewed by the Publicly Owned Treatment Works (POTW) operator designated by the control authority prior to waste discharge. (See Article V)

9-3-89. Rejection of liquid waste.

(a) Transported waste will not be accepted if it has a solvent-like, petroleum-like or other odor that is not characteristic of normal domestic septic tank waste.

(b) Transported waste will not be accepted if it has an excessively oily appearance.

(c) Delivery of any liquid waste found to contain toxic or other non-compatible or prohibited pollutants may result in enforcement action taken by the control authority.

9-3-90. Incompatible waste.

(a) Mixing of incompatible waste within the same container is prohibited. Waste haulers shall not use the same container or pumping equipment to collect or transport incompatible waste without first emptying and cleaning the container and equipment of all previously handled waste.

(b) The waste hauler shall not mix chemical toilet waste and septic tank waste or other types of waste in the same load.

(c) The waste hauler shall not attempt to deliver, for discharge into the POTW, mixed liquid waste which is incompatible with the treatment facility processes.

9-3-91. Transported waste disposal records requirements.

(a) Records shall be maintained for each individual collection and disposal. Such records shall be in the form of a waste hauler manifest issued by the control authority. The waste hauler manifest shall include:

(1) Name, establishment number, and discharge permit number.

(2) Name, address, telephone number, and signature of person who generated the waste.

(3) Type of facility from which the waste was collected.

(4) Known or suspected constituents and whether any wastes are RCRA hazardous waste.

(5) Date the waste was collected.

(6) Volume of waste collected.

(7) Name and signature of responsible person (s) collecting and transporting the waste.

(8) Date and time the waste was disposed.

(9) Name and signature of control authority representative acknowledging receipt of the waste.

(b) The waste manifest forms shall be obtained from the control authority upon written request. The form shall consist of four copies which shall be used to document the generation, transportation, and disposal of applicable waste.

(c) The first section of the manifest shall be completed at the time of collection and before the vehicle is moved from the generator's property. The reminder of the manifest shall be completed at the time of transfer or disposal as appropriate.

(1) The manifest form shall be signed by the generator at the time of waste collection.

(2) The manifest form shall be signed by the waste hauler at the time of waste collection.

(3) The manifest form shall be signed by the control authority representative at the time of waste disposal.

(d) The copies of the manifest forms shall be distributed as follows:

(1) The fourth copy with the generator information and transporter information and signatures completed shall be given to the generator at the time of waste collection.

(2) The third copy with all information and signatures completed shall be retained by the waste hauler at the time of disposal.

(3) The second and original copies with all information and signatures completed shall be given to the control authority representative.

(e) All copies of the manifest form shall be retained by the respective recipients for a minimum of three (3) years and shall be made available to the control authority, state, and EPA upon request or demand for inspection and /or copying. This period shall be automatically extended for duration of any litigation concerning the generator, waste hauler, or control authority, or where any involved party has been specifically notified by the control authority of a longer retention period.

(f) An acceptable log of operation shall be maintained by the waste hauler and made available for inspection and copying by the control authority at any reasonable time.

9-3-92. Violations.

The penalty for violation of this ordinance shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors.

9-3-93. Severability.

Should any part of these regulations be adjudged invalid by a court of law having jurisdiction, all other parts shall remain in full force and effect.

(Ord. No. 5111, §1, 6-15-02)

CHAPTER 4

WATER SYSTEM

9-4-1. Water and Sewer Commission.

Amendment note-Ord. Nos. 2151 and 3932 created a Waterworks Commission and Waterworks and Sewer Commission in accordance with applicable state law (A.C.A. § 14-234-301, et seq.). These commissions were abolished by Ord. No. 4165 (adopted 8/29/91) and a Water and Sewer Advisory Commission was created by Res. No. 2625 (adopted 8/29/91). The advisory commission was abolished by Res. No. 3032 (adopted 7/18/94) and a new Water and Sewer Commission was created by Ord. No. 4412 (adopted 8/22/94). However, prior to the effective date of Ord. No. 4412, Ord. No. 4456 (adopted 2/6/95) repealed Ord. No. 4412 thereby abolishing this commission prior to its formation. On July 6, 1995, Ord. No. 4493 was adopted which created a Water and Sewer Commission pursuant to A.C.A. 14-234-116 effective January 1, 1996. A referendum election was held on Ord. No. 4493 on November 7, 1995. At this election, Ord. No. 4493 was repealed by a vote of 1,167 for and 3,045 against. Presently, there is no water and sewer commission in any form.

9-4-2. Water and Wastewater Engineering and Construction Standards and Specifications Code.

9-4-2.1. Adoption.

The City of Hot Springs Water and Wastewater Engineering and Construction Standards and Specifications Code, attached hereto* and hereby made a part hereof as if set out herein word for word is hereby adopted as the Water and Wastewater Engineering and Construction Standards and Specifications Code for the City of Hot Springs, Arkansas.

***Editor's note:** The code is on file in the Office of the City Clerk.

9-4-2.2. Severability.

Should any part of these regulations be adjudged invalid by a court of law having jurisdiction, all other parts shall remain in full force and effect.

9-4-2.3. Penalty.

The penalty for violation of this code shall, upon conviction in the Hot Springs Municipal Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors.

(Ord. No. 5200, §§1, 2, 4, 7-21-03; Ord. No. 5479, §1, 8-21-06, Ord. No. 5512, §1, 12-18-06)

9-4-3. Reserved.

Cross reference - §16-4-1 et seq, Subdivision Code.

9-4-4. Water rates and charges.

9-4-4.1. Definitions.

The following words and phrases have the following meanings for the purpose of this Ordinance:

City means the city of Hot Springs, Arkansas, and the words "the city" or "this city" shall be construed as if the word "of Hot Springs" followed it and shall extend to and include its several officers, agents and employees.

In-city customer means a customer of the system receiving service inside the corporate boundaries of the city including residential, commercial and industrial customers and not otherwise classified.

Out-of-city customer means a customer of the system receiving service outside the corporate boundaries of the city including residential, commercial and industrial customers and not otherwise classified.

Sprinkler meter customer means any in-city or out-of city customer who has installed a water meter solely for the purpose of lawn or landscape irrigation, which is not otherwise part of a building or structure plumbing system.

System means the municipal waterworks system of the city.

Tax exempt customer means any customer of the system entitled to a exemption from sales and use tax pursuant to the Arkansas Gross Receipts Act of 1941, as amended.

Wholesale customer means any water improvement district or other such large volume user, serving multiple third party customers, by purchasing water from the system through a master meter or similar arrangement pursuant to an agreement approved by the Hot Springs Board of Directors. (Ord. No. 5024, §1, 12-3-01)

9-4-4.2. Schedule of rates and charges.

The rates and charges of the system shall be as follows:

(a) *Meter measurement.* Except for fire service charges as provided in subsection (e) of this section, all water used shall be measured through meters unless an alternate method is specifically approved by resolution of the board of directors.

(b) *Minimum charge for water used.* Each customer of the system, including the various departments and agencies of the city, shall pay a minimum monthly charge for water used based on meter size. The minimum monthly charge shall cover the first one thousand (1,000) gallons of monthly water usage, but shall be imposed whether a customer actually uses such amount or any amount. The minimum monthly charge shall be as established by the minimum monthly charge water rate schedule attached hereto.

(c) *Additional charge for water used.* In addition to the minimum monthly charge there shall be imposed upon each customer of the system, including the various departments and agencies of the city, a volume rate for each one thousand (1,000) gallons of water used each month in excess of one thousand (1,000) gallons per month. The monthly volume charge shall be based on meter size and customer category as established by the additional monthly volume charge water rate schedule attached hereto.

(d) Reserved.

(e) *Fire service charges.* All customers of the system shall pay annual fire service charges, if applicable, as established by the annual fire service water rate schedule attached hereto.

(f) *Sprinkler meters*. Each sprinkler meter customer, including the various departments and agencies of the city, shall pay a minimum monthly charge, based on meter size, for the first one thousand (1,000) gallons of monthly water usage plus an additional monthly amount (volume rate) for each one thousand (1,000) gallons of water used each month in excess of one thousand (1,000) gallons per month. The minimum rate shall be imposed whether or not a customer actually incurs any usage during any given month. The minimum monthly charge and the additional monthly volume charge shall be as established by the sprinkler water rate schedule attached hereto.

(g) *Tax exempt customers.* Tax exempt customers shall pay the appropriate in-city or out-of-city water service rate but shall not be assessed sales taxes in accordance with the provisions of the Arkansas Gross Receipts Act of 1941, as amended. (Ord. No. 5024, §2, 12-3-01)

9-4-4.3. Uniform municipal utility billing procedure.

The charges for installation, connection and re-connection of service, the provisions governing meters and meter deposits, and the procedures for billing, payment, penalty and discontinuance of service shall be in accordance with the uniform municipal utility billing procedure ordinance (Title 9, Chapter 6). (Ord. No. 5024, §3, 12-3-01)

9-4-4.4. Rate schedules.

The following rate schedules, attached hereto and incorporated herein, which the board of directors finds and declares to be fair, reasonable and necessary, are hereby adopted:

Schedule A-1 - A-5 – Minimum Monthly & Additional Volume Charges
Schedule B – Annual Fire Service Charges

9-4-4.5. Annual review.

The city will make a full review annually of the rates, charges, and operations of the system.

SCHEDULE A-1 MINIMUM MONTHLY AND ADDITIONAL CHARGES
PHASE I

For bills rendered between November 1, 2009 and February 28, 2010

I. MINIMUM MONTHLY CHARGE 1ST 1,000 GALLONS

Meter Size (inches)	W1	W9	W2,W3,W6,W8	W10,W11,W14,W15	W7	W4,W5	W12,W13
	Residential in-city	Residential out-of-city	Commercial/Industrial Nonprofit/Construction in-city	Commercial/Industrial Nonprofit/Construction out-of-city	Wholesale in-city	Sprinkler in-city	Sprinkler out-of-city
5/8	$4.22	$6.33	$4.30	$6.46	$4.70	$4.64	$6.96
3/4	6.32	9.48	6.45	9.67	7.07	6.95	10.43
1	10.55	15.83	10.76	17.14	11.77	11.61	17.41
1-1/2	21.07	31.61	21.49	32.24	23.51	23.18	34.77
2	33.72	50.58	34.39	51.59	37.61	37.09	55.64
3	63.23	94.85	64.49	96.74	70.53	69.55	104.33
4	105.37	158.06	107.48	161.22	117.57	115.91	173.86
6	210.74	316.11	214.95	322.43	235.12		
8	337.17	505.76	343.91	515.87	376.20		
10	484.59	726.89	494.28	741.42	540.77		

II. ADDITIONAL MONTHLY VOLUME CHARGE (per 1,000 gallons)

Gallons Range	W1	W9	W2,W3,W6,W8	W10,W11,W14,W15	W7	W4,W5	W12,W13
	Residential in-city	Residential out-of-city	Commercial/Industrial Nonprofit/Construction in-city	Commercial/Industrial Nonprofit/Construction out-of-city	Wholesale in-city	Sprinkler in-city	Sprinkler out-of-city
1,001 - 5,000	$2.13	$3.20	$2.17	$3.26	$1.45	$2.34	$3.51
5,001 - 10,000	2.38	3.57	2.17	3.26	1.45	2.34	3.51
10,001 - 20,000	2.63	3.95	2.17	3.26	1.45	2.34	3.51
20,001 - Above	2.88	4.32	2.17	3.26	1.45	2.34	3.51

SCHEDULE A-2 MINIMUM MONTHLY AND ADDITIONAL CHARGES
PHASE II

For bills rendered between March 1, 2010 and December 31, 2010

I. MINIMUM MONTHLY CHARGE 1ST 1,000 GALLONS

Meter Size (inches)	W1	W9	W2,W3,W6,W8	W10,W11,W14,W15	W7	W4,W5	W12,W13
	Residential in-city	Residential out-of-city	Commercial/Industrial Nonprofit/Construction in-city	Commercial/Industrial Nonprofit/Construction out-of-city	Wholesale in-city	Sprinkler in-city	Sprinkler out-of-city
5/8	$4.22	$6.33	$4.39	$6.59	$4.80	$5.11	$7.66
3/4	6.32	9.48	6.58	9.86	7.21	7.65	11.47
1	10.55	15.83	10.98	16.46	12.01	12.77	19.15
1-1/2	21.07	31.61	21.92	32.88	23.98	25.49	38.24
2	33.72	50.58	35.08	52.62	38.36	40.80	61.20
3	63.23	94.85	65.78	98.68	71.94	76.51	114.76
4	105.37	158.06	109.63	164.44	119.92	127.50	191.25
6	210.74	316.11	219.25	328.88	239.82		
8	337.17	505.76	350.79	526.19	383.72		
10	484.59	726.89	504.17	756.25	551.59		

II. ADDITIONAL MONTHLY VOLUME CHARGE (per 1,000 gallons)

Gallons Range	W1	W9	W2,W3,W6,W8	W10,W11,W14,W15	W7	W4,W5	W12,W13
	Residential in-city	Residential out-of-city	Commercial/Industrial Nonprofit/Construction in-city	Commercial/Industrial Nonprofit/Construction out-of-city	Wholesale in-city	Sprinkler in-city	Sprinkler out-of-city
1,001 - 5,000	$2.13	$3.20	$2.22	$3.32	$1.48	$2.58	$3.87
5,001 - 10,000	2.38	3.57	2.22	3.32	1.48	2.58	3.87
10,001 - 20,000	2.63	3.95	2.22	3.32	1.48	2.58	3.87
20,001 - Above	2.88	4.32	2.22	3.32	1.48	2.58	3.87

SCHEDULE A-3 MINIMUM MONTHLY AND ADDITIONAL CHARGES
PHASE III

For bills rendered between January 1, 2011 and December 31, 2011

I. MINIMUM MONTHLY CHARGE 1ST 1,000 GALLONS

Meter Size (inches)	W1	W9	W2,W3,W6,W8	W10,W11,W14,W15	W7	W4,W5	W12,W13
	Residential in-city	Residential out-of-city	Commercial/Industrial Nonprofit/Construction in-city	Commercial/Industrial Nonprofit/Construction out-of-city	Wholesale in-city	Sprinkler in-city	Sprinkler out-of-city
5/8	$4.22	$6.33	$4.57	$6.85	$4.99	$5.62	$8.43
3/4	6.32	9.48	6.84	10.26	7.50	8.41	12.62
1	10.55	15.83	11.42	17.12	12.49	14.04	21.06
1-1/2	21.07	31.61	22.80	34.20	24.94	28.04	42.07
2	33.72	50.58	36.49	54.73	39.89	44.88	67.32
3	63.23	94.85	68.42	102.62	74.82	84.16	126.24
4	105.37	158.06	114.01	171.02	124.71	140.25	210.37
6	210.74	316.11	228.02	342.04	249.42		
8	337.17	505.76	364.82	547.24	399.07		
10	484.59	726.89	524.33	786.50	573.65		

II. ADDITIONAL MONTHLY VOLUME CHARGE (per 1,000 gallons)

Gallons Range	W1	W9	W2,W3,W6,W8	W10,W11,W14,W15	W7	W4,W5	W12,W13
	Residential in-city	Residential out-of-city	Commercial/Industrial Nonprofit/Construction in-city	Commercial/Industrial Nonprofit/Construction out-of-city	Wholesale in-city	Sprinkler in-city	Sprinkler out-of-city
1,001 - 5,000	$2.13	$3.20	$2.30	$3.46	$1.54	$2.84	$4.25
5,001 - 10,000	2.38	3.57	2.30	3.46	1.54	2.84	4.25
10,001 - 20,000	2.63	3.95	2.30	3.46	1.54	2.84	4.25
20,001 - Above	2.88	4.32	2.30	3.46	1.54	2.84	4.25

SCHEDULE A-4 MINIMUM MONTHLY AND ADDITIONAL CHARGES
PHASE IV

For bills rendered between January 1, 2012 and December 31, 2012

I. MINIMUM MONTHLY CHARGE 1ST 1,000 GALLONS

Meter Size (inches)	W1	W9	W2,W3,W6,W8	W10,W11,W14,W15	W7	W4,W5	W12,W13
	Residential in-city	Residential out-of-city	Commercial/Industrial Nonprofit/Construction in-city	Commercial/Industrial Nonprofit/Construction out-of-city	Wholesale in-city	Sprinkler in-city	Sprinkler out-of-city
5/8	$4.22	$6.33	$4.79	$7.19	$5.24	$6.18	$9.27
3/4	6.32	9.48	7.18	10.77	7.87	9.25	13.88
1	10.55	15.83	11.99	17.98	13.11	15.45	23.17
1-1/2	21.07	31.61	23.94	35.91	26.19	30.85	46.27
2	33.72	50.58	38.31	57.46	41.89	49.37	74.05
3	63.23	94.85	71.84	107.75	78.56	92.58	138.86
4	105.37	158.06	119.71	179.57	130.95	154.27	231.41
6	210.74	316.11	239.43	359.14	261.89		
8	337.17	505.76	383.06	574.60	419.02		
10	484.59	726.89	550.55	825.83	602.34		

II. ADDITIONAL MONTHLY VOLUME CHARGE (per 1,000 gallons)

Gallons Range	W1	W9	W2,W3,W6,W8	W10,W11,W14,W15	W7	W4,W5	W12,W13
	Residential in-city	Residential out-of-city	Commercial/Industrial Nonprofit/Construction in-city	Commercial/Industrial Nonprofit/Construction out-of-city	Wholesale in-city	Sprinkler in-city	Sprinkler out-of-city
1,001 - 5,000	$2.13	$3.20	$2.42	$3.63	$1.61	$3.12	$4.68
5,001 - 10,000	2.38	3.57	2.42	3.63	1.61	3.12	4.68
10,001 - 20,000	2.63	3.95	2.42	3.63	1.61	3.12	4.68
20,001 - Above	2.88	4.32	2.42	3.63	1.61	3.12	4.68

SCHEDULE A-5 MINIMUM MONTHLY AND ADDITIONAL CHARGES
PHASE V

For bills rendered between January 1, 2013 and December 31, 2013

I. MINIMUM MONTHLY CHARGE 1ST 1,000 GALLONS

Meter Size (inches)	W1	W9	W2,W3,W6,W8	W10,W11,W14,W15	W7	W4,W5	W12,W13
	Residential in-city	Residential out-of-city	Commercial/Industrial Nonprofit/Construction in-city	Commercial/Industrial Nonprofit/Construction out-of-city	Wholesale in-city	Sprinkler in-city	Sprinkler out-of-city
5/8	$4.43	$6.65	$5.03	$7.55	$5.50	$6.80	$10.19
3/4	6.64	9.95	7.54	11.31	8.27	10.18	15.27
1	11.08	16.62	12.59	18.88	13.77	16.99	25.49
1-1/2	22.12	33.19	25.13	37.70	27.50	33.93	50.90
2	35.41	53.11	40.23	60.34	43.98	54.31	81.46
3	66.39	99.59	75.43	113.14	82.49	101.83	152.75
4	110.64	165.96	125.70	188.55	137.50	169.70	254.55
6	221.28	331.92	251.40	377.09	274.98		
8	354.03	531.04	402.22	603.33	439.97		
10	508.82	763.23	578.08	867.12	632.45		

II. ADDITIONAL MONTHLY VOLUME CHARGE (per 1,000 gallons)

Gallons Range	W1	W9	W2,W3,W6,W8	W10,W11,W14,W15	W7	W4,W5	W12,W13
	Residential in-city	Residential out-of-city	Commercial/Industrial Nonprofit/Construction in-city	Commercial/Industrial Nonprofit/Construction out-of-city	Wholesale in-city	Sprinkler in-city	Sprinkler out-of-city
1,001 - 5,000	$2.24	$3.35	$2.54	$3.81	$1.69	$3.43	$5.15
5,001 - 10,000	2.50	3.75	2.54	3.81	1.69	3.43	5.15
10,001 - 20,000	2.76	4.14	2.54	3.81	1.69	3.43	5.15
20,001 - Above	3.02	4.54	2.54	3.81	1.69	3.43	5.15

SCHEDULE A-6 MINIMUM MONTHLY AND ADDITIONAL CHARGES
PHASE VI

For bills rendered between January 1, 2014 and thereafter

I. MINIMUM MONTHLY CHARGE 1ST 1,000 GALLONS							
	W1	W9	W2,W3,W6,W8	W10,W11,W14,W15	W7	W4,W5	W12,W13
Meter Size (inches)	Residential in-city	Residential out-of-city	Commercial/Industrial Nonprofit/Construction in-city	Commercial/Industrial Nonprofit/Construction out-of-city	Wholesale in-city	Sprinkler in-city	Sprinkler out-of-city

All 3% increase per annum for all classifications and/or categories. Provided, however, that the per annum percentage increase shall not exceed the annual average CPI-U for the preceding calendar year as published by the U. S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index, All Urban Consumers (CPI-U), U. S. city average, all items, percent change from previous year.

II. ADDITIONAL MONTHLY VOLUME CHARGE (per 1,000 gallons)							
	W1	W9	W2,W3,W6,W8	W10,W11,W14,W15	W7	W4,W5	W12,W13
Gallons Range	Residential in-city	Residential out-of-city	Commercial/Industrial Nonprofit/Construction in-city	Commercial/Industrial Nonprofit/Construction out-of-city	Wholesale in-city	Sprinkler in-city	Sprinkler out-of-city

All 3% increase per annum for all classifications and/or categories. Provided, however, that the per annum percentage increase shall not exceed the annual average CPI-U for the preceding calendar year as published by the U. S. Department of Labor, Bureau of Labor Statistics, Consumer Price Index, All Urban Consumers (CPI-U), U. S. city average, all items, percent change from previous year.

WATER RATE SCHEDULE B
ANNUAL FIRE SERVICE CHARGES

	in-city customer	*out-of-city customer*
Fire connection, minimum	$48.00	$72.00
Private fire hydrants, each	60.00	90.00
Hose connection:		
1-1/4-inch diameter or smaller, each	12.00	18.00
1-1/2-inch diameter, each	18.00	27.00
2-inch diameter, each	30.00	45.00
2-1/2-inch diameter, each	48.00	72.00
Larger than 2-1/2-inch diameter, each	72.00	108.00

(Ord. No. 5735, §1, 9-15-09)

9-4-5--9-4-11. Reserved.

9-4-12. Water conservation policy.

It is hereby determined that in order for the city of Hot Springs to provide and maintain a sufficient water supply and distribution system for human consumption, sanitation, and fire protection, and to insure the safety and well being of the users of water provided by the Hot Springs Municipal Water System, it is necessary to limit water consumption through restrictions and prohibitions on the use of city water during certain times of the year as set out below.

9-4-12.1. Water conservation policy - Definitions.

For the purpose of this section, the following terms shall have the meanings given herein:

(a) *Water users* means all persons and entities who use and/or purchase water provided by the Hot Springs Municipal Water System.

(b) *Contract water users* includes all persons, firms, or corporations or entities who purchase water from the Hot Springs Municipal Water System for individual use, resale and/or redistribution outside the corporate limits of the city of Hot Springs under a master meter or other such contractual arrangement as approved by the board of directors.

(a) *System or water system* means the City of Hot Springs, Arkansas, Municipal Water System.

9-4-12.2. Water conservation policy - Voluntary conservation measures.

(a) This section shall apply to all water users on a voluntary basis. An initial voluntary conservation phase (Phase I) shall go into effect when the city manager or his designee determines that lake levels and city storage reservoirs are approaching critical levels.

(b) Phase I conservation measures shall consist of the following voluntary restrictions and prohibitions on the use of city water:

(1) The following uses of water are permitted at locations with even-numbered addresses on even-numbered days of the month only and at locations with odd-numbered addresses on odd-numbered days of the month only: lawn watering; watering of shrubs, plants, trees and gardens; the washing of motor vehicles, trailers, airplanes or boats (not applicable to commercial car washes); filling swimming pools or fountains; and washing of building exteriors.

(2) No person shall use water as provided for in Section 9-4-12-2(b)(1) to such an extent as to allow water to escape from his premises onto public property, such as alleys or streets, nor onto another person's property.

(3) Golf course watering and other commercial irrigation from city sources shall be done only to the extent necessary to preserve turf and other plant life and at such times during the day as to minimize water loss due to evaporation.

(4) The use of water from fire hydrants at any time for construction purposes, fire drills, or routine hydrant testing is prohibited. Only non-potable water should be used for dirt compaction, earth moving operations, or street-base course construction.

(5) The washing of sidewalks, walkways, driveways, patios, parking lots, concrete tennis courts, and other hard-surfaced areas by hosing or by use of water directly from faucets or other city sources is prohibited. Food processing and food service establishments may engage in such use of water only to the extent necessary to maintain and preserve the public health, and in compliance with any state or federal regulations. Restaurants and other food service establishments may hose or wash only walkways immediately adjacent to entrances and not beyond ten (10) feet of entrances and not beyond ten (10) feet of garbage facilities, food delivery or food serving areas.

(6) No person shall irrigate or water lawns, turf, shrubs, plants, trees or gardens between the hours of 10:00 a.m. and 7:00 p.m. (not applicable to greens and tee boxes on golf courses.)

(7) The city shall have the authority to install flow restriction devices on those lines to contract water users which exceed their contractual allocation. Installation of flow restriction devices shall require specific approval of the board of directors of the city of Hot Springs before installation.

9-4-12.3. Water conservation policy - Mandatory conservation measures.

(a) This section shall apply to all water users on a mandatory basis. An advanced mandatory conservation phase (Phase II) shall go into effect when the city manager and utilities director determine that lake and storage tank levels are at dangerous levels.

(b) Upon such determination that lake and storage tank levels are at dangerous levels, the city manager, or his designated agent, shall notify all users of water from the city of Hot Springs by any reasonable means, which may include, but are not limited to, media coverage, that the conservation measures of Phase II are in effect. The city manager, or his designated agent, is hereby authorized and directed to ensure compliance with and enforcement of the Phase II conservation measures set forth below.

(c) Phase II conservation measures shall consist of Phase I measures plus the following restrictions and prohibitions on the use of city water:

(1) The watering of shrubs, plants, trees and gardens is permitted only by hand- held hose and should be limited to the minimum amounts necessary to sustain plant life. Such watering is permitted at locations with even-numbered addresses on even-numbered days of the month only and at locations with odd-numbered addresses on odd-numbered days of the month only. All lawn and turf watering from city sources is prohibited.

(2) Golf course watering and other commercial irrigation from city sources shall be done only to the extent necessary to preserve turf and other plant life. Golf courses are permitted to water only greens and tee boxes from city sources. Golf course fairway and rough watering and school football and baseball field watering from city sources are specifically prohibited.

(3) All washing of motor vehicles, trailers, airplanes, boats or building exteriors is prohibited, except at commercial car washes and licensed commercial vehicle dealerships. Licensed commercial dealerships shall limit washing to Tuesday and Friday only. The filling of swimming pools or outdoor fountains and outdoor fountain operation is prohibited.

(d) The restrictions and prohibitions of Phase II shall be removed when the city manager and utilities director determine that lake and water storage reservoir levels are at satisfactory levels. The city manager, or his designated agent, shall notify all users of water from the city of Hot Springs by any reasonable means, which may include, but is not limited to, media coverage, that the conservation measures of Phase II are no longer in effect.

9-4-12.4. Water conservation policy - Authority.

Whenever an emergency exists as determined by the city manager, or his designated agent, by reason of a shortage of water, limited distribution facilities or any other circumstances which make it necessary to immediately conserve water, there is hereby delegated to the city manager, or his designated agent, the authority to implement the conservation measures of Phase I and/or Phase II and other conservation measures which are necessary to maintain potable water for essential public health and safety functions. These emergency measures shall remain in effect until the next regularly scheduled meeting or special meeting of the board of directors at which time the board shall decide whether it is necessary to continue the said measures.

9-4-12.5. Water conservation policy - Contract users surcharge.

This section shall apply to contract water users as defined in Section 9-4-12.1. During the terms of the conservation phases as contained in Sections 9-4-12.3 and 9-4-12.4, contract water users may be assessed surcharges as provided for in their contract or the system's rate schedule for contract users.

9-4-12.6. Water conservation policy - Penalty.

The penalty for violation of this ordinance shall, upon conviction in the Hot Springs municipal court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs board of directors. In addition, any water user convicted of violation of this ordinance may be disconnected from the Hot Springs Municipal water service.

9-4-12.7. Water conservation policy - Contract water users.

With reference to the existing contracts with contract water users, it is the policy of the City of Hot Springs to not permit increases in the contractual allocations of volumes of water to any contract user in excess of (1) the demonstrated, then current needs of the contract user or (2) 50% of the average of the last five (5) years annual allocation for such contract user, whichever (of 1 or 2) is the lesser. No water user (except contract water users) of the Hot Springs Municipal Water System shall enter into any contract for the commercial resale of water to another person or entity.

(Ord. No. 4912, §§1–8, 10-16-00)

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CHAPTER 5

UTILITIES EXTENSION AND CONNECTION REGULATIONS

9-5-1. Municipal utilities extension and connection regulations.

The following regulations are hereby adopted and shall be known as the "Hot Springs Municipal Utilities Extension and Connection Regulations."

(a) *Statement of policy*. It is hereby declared to be the policy of the City of Hot Springs and its municipal utility departments to maintain and operate its water and wastewater systems pursuant to *A.C.A.§14-234-110 and A.C.A.§14-234-111*.

(b) *Connections and Extensions*. Connection and/or extension requests shall be processed in accordance with the following procedure:

(1) **Administrative Approval.** The City Manager or his designee shall maintain all requests for water and/or wastewater line and service extensions. Any such requests for residential projects consisting of less than twenty (20) dwelling units or single-family lots, or commercial projects with an anticipated consumption or use equivalent of less than twenty (20) dwelling units, may be approved by the City Manager, or his/her designee, on a case by case basis, taking into consideration the production and/or capacity limitations of the City's water and/or wastewater system(s). In determining the capacity limitations of the systems, the utility departments shall assess the impact that any such connection or extension will have on the overall capacity of the particular system to be affected, which from time to time may require a calculation of such an impact utilizing water and/or wastewater models now or hereafter available to the City.

(2) **Board Approval Required.** Any such requests for residential projects consisting of twenty (20) or more dwelling units or single-family lots, or commercial projects with an anticipated consumption or use equivalent of twenty (20) or more dwelling units, shall be presented for consideration by the Board of Directors, on a case by case basis, taking into consideration the capacity and/or production limitations of the City's water and/or wastewater system(s). The utility departments shall assess the impact that any such connection or extension will have on the overall capacity of the particular system to be affected, and in each instance shall calculate such impact utilizing any and all water and/or wastewater models now or hereafter available to the City. Said assessment shall accompany any request presented to the Board of Directors.

(3) Cost. The cost associated with any such connection or extension shall be borne by the customer/developer requesting same.

(4) Priority of Requests. Any such requests within the corporate limits of the City shall be given priority over projects outside the city limits.

(c) **Extension Specifications and Standards**. City review, inspection, and approval of the plans and specifications shall be required for all water or wastewater line and service extension projects. All such projects shall be constructed in accordance with the minimum standards, applicable building and technical codes, rules, regulations and policies as may now or hereafter be required or enacted by the City of Hot Springs, the State of Arkansas, and/or the United States of America.

(d) Acceptance of Improvements. Once water or wastewater line improvements and/or extensions, authorized by this ordinance have been constructed by the permitee and approved by the City of Hot Springs Utilities Department in accordance with the Department's specifications, said improvements shall be presented for acceptance by resolution of the Board of Directors for perpetual maintenance by the City of Hot Springs.
basis.

(Ord. No. 5931, §1, 3-5-2013)

Editor's Note: Ord. No. 5931 amended Ord. No. 5555, approved 4-16-2007, previously codified in this section.

9-5-2. Cost recovery.

The following regulations and procedures shall govern the recovery of costs associated with water and wastewater line extensions.

(a) *Purpose*. The intent of this policy is to define the circumstances under which a developer may recover a portion of the cost of installing water and/or wastewater facilities from subsequent developers who may utilize all or part of the improvements. It also establishes the procedure for determining, collecting and distributing such recoveries.

(b) *Definitions*. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this sub-section, unless the context of their usage clearly indicates another meaning:

Applicant – Developers, their successors and assigns, who are seeking recovery for water and/or wastewater facilities costs from subsequent developers.

City - City of Hot Springs, Arkansas.

Developer – An individual, group of individuals, improvement district, business or corporation responsible for the initial construction of water and/or wastewater facilities or any individual, group of individuals, improvement district, business or corporation who desires to connect to such facilities constructed by others.

Utility – City of Hot Springs Water and Wastewater Utilities Department.

(c) *Qualifications*. In order for an applicant to be entitled to recover a portion of initial construction costs for water and/or wastewater facilities through a cost recovery agreement, the applicant must meet the following requirements.

(1) Water distribution mains shall be a minimum size of six inches (6”) in diameter unless otherwise approved by the utilities director and/or the utilities engineer. Water extensions of two inches (2”) in diameter or larger which are 100 feet or more in length, or provide service to more than one meter, will be subject to plan approval by the utility and the Arkansas Department of Health.

(2) Wastewater pressure main extensions of two inches (2”) in diameter or larger which are 100 feet or more in length, or provide service to more than one customer, will be subject to plan approval by the utility and the Arkansas Department of Health.

(3) Wastewater gravity mains shall be a minimum size of eight inches (8”) in diameter, unless otherwise approved by the utilities director and/or utilities engineer. Wastewater gravity main extensions of six inches (6”) in diameter or larger which are 100 feet or more in length, or provide service to more than one customer, will be subject to plan approval by the utility and the Arkansas Department of Health

.

(4) All construction, cleanup and required system testing must be satisfactorily completed and evidence of such completion filed with the utility.

(5) As-built drawings and actual construction cost statements must have been received and field checked for accuracy by the utility as evidenced by an acceptance letter from the utility.

(6) All easements and/or street right-of-way dedications must have been filed with the Garland County Circuit Clerk's Office and copies provided to the utility.

(7) All recoveries owed by applicant to other previous developers as a result of installation of new facilities must be paid in full.

(8) Applicant must state his intentions by requesting that a cost recovery agreement be granted by the utility prior to construction of facilities in order to determine the number of possible future connections and estimate the cost for each. A developer who does not address these issues prior to construction is considered to have waived his or her rights for any cost recovery from subsequent connections to such construction.

(9) Cost recovery will only be granted on direct service connections to the water or wastewater main constructed by applicant and will be paid on a per-parcel or per-lot basis. There will be no cost recovery for connection or extension of water mains 6" or larger serving single lots or developments that cannot be directly served by the constructed mains. If the utility absorbs the expense of up-sizing the line, the developer will only be entitled to cost recovery related to the design capacity of the line needed to serve his development. The developer would not be entitled to cost recovery for the additional capacity paid for by the utility. There will be no cost recovery for lines sized 2" or less.

(Ord. No. 5555, §2, 4-16-07)

9-5-3. Water/sewer extensions within Mid-America Park-Policy.

The following water/sewer extension policy is hereby adopted:

(a) The city and Garland County Industrial Development Corporation (GCIDC) hereby pledge to work together to attract new industries to locate in the Mid-America Industrial Park. The city will assist such industries with extension of water and sewer services according to the terms and conditions listed in this resolution.

(b) Whenever such industries approach GCIDC seeking assistance with extension of water and sewer services, GCIDC and the city will attempt to obtain grant funding to pay for such extension.

(c) If the city and GCIDC are not successful in obtaining such outside funding, the city will provide the costs for water and sewer extension to the property line based upon the following:

(1) That such cost will be provided by the city, based upon the industry's creation of net new full-time jobs totaling 10 during the first 24 months of operation.

(2) That, if such jobs are not provided during the first 24 months of operation, the industry will reimburse the city at a rate of $2,000 per employee for each net new full-time employee (under 10) that the industry has not provided.

(3) That such reimbursement will not, in any case, exceed the actual city costs for extension of such services. That any reimbursement due may be pro-rated over a 12-month period and billed to industry monthly. Failure to pay the monthly assessment shall result in disconnection of the industry's municipal water service. Water service disconnection/re-connection, and costs thereof, shall be accomplished in accordance with the applicable provisions of the uniform municipal utility billing procedure ordinance (Title 9, Chapter 6).

(4) That for any industry providing less than 10 net new full-time jobs, the city and GCIDC will negotiate the cost share for water and sewer line extensions considering the type of industry, total jobs and other factors.

(d) The city and the industry shall execute an agreement ensuring compliance with the provisions of this policy.

(Res. No. 3633, § 1, 4-21-97)

Editor's note-*§ 9-5-3 was adopted by Resolution, but included in the Code of Ordinances due to its permanent nature.*

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CHAPTER 6

UNIFORM MUNICIPAL UTILITY BILLING PROCEDURE

9-6-1. Uniform municipal utility billing procedure.

The following uniform municipal utility billing procedure is hereby adopted:

9-6-1.1. Definitions.

For purposes of this ordinance, the following words and phrases shall have the meaning as defined by this section.

(a) *Bill* means the statement of account for municipal utility services rendered by the city to a customer which is due and payable upon receipt to the city by the customer. (Ord.No. 6032, §1, 6-17-2014)

(b) *City* means the municipal corporation known as the city of Hot Springs, Arkansas, and any designated agent authorized to act on behalf of the city.

(c) *Customer* means any person, firm, corporation or entity to whom municipal utility services are rendered regardless of billing classification.

(d) *Delinquent customer* means any person, firm, corporation or entity who fails to pay any current charges or portion thereof for any municipal utility–before past due date on the bill. (Ord.No. 6032, §1, 6-17-2014)

(e) *Municipal utilities* means the water, wastewater, sanitation, and stormwater, services, departments or systems of the City of Hot Springs or any combination thereof. (Ord. No. 5630, §1(a), 1-8-08)

(f) *Past due amount* means any current charges or portion thereof for any municipal utility which remain unpaid following past due date on the bill is subject to an additional ten percent (10%) fee of the current bill amount. (Ord.No. 6032, §1, 6-17-2014)

(g) *Service (or account) in good standing* means any customer who has had no service disconnections, no check or draft return or no more than two delinquencies within the most recent 12-month period.

9-6-1.2. Utility billing section.

There is hereby created a utility billing section within such department(s) as may be designated by the city manager. The billing section shall be responsible for the calculation and rendering of all municipal utility bills. The utility billing section shall maintain account records for each customer which includes the customer's name, billing address, service address, current charges and account history including past due charges, penalties and fees. The billing section shall also submit regular reports to each municipal utility indicating the status of all accounts and the total amounts billed and collected.

Cross reference-§4-11-2, permit issuance prohibited if indebted to city; §16-4-1 et seq, Subdivision Code.

9-6-1.3. Rate ordinances.

All municipal utility charges shall be calculated in accordance with the specific rate ordinance applicable to each municipal utility or service rendered to a customer.

9-6-1.4. Monthly utility bill.

The utility billing section shall provide each municipal utility customer a combined monthly municipal utility bill which shall include the charges incurred by the customer for regular monthly water, wastewater, sanitation, and/or stormwater services or any combination thereof, plus any fees, penalties or previous balances. Each municipal utility shall be designated as a separate entry on the billing statement. Bills for municipal utility services provided shall be rendered and paid monthly. (Ord. No. 5630, §1(b), 1-8-08)

9-6-1.5. Extra service bills.

Billings for any extra services, fire service charges, installation charges or other special charges shall be rendered in accordance with the applicable utility or service rate ordinance and shall be included on the appropriate monthly billing statement or as a separate bill.

9-6-1.6. Billing cycle.

(a) *Billing period*. Monthly billings shall be rendered within thirty (30) days following the period in which municipal utility service is provided. The date the bill is rendered shall be known as the billing date. The total bill shall be due and payable upon receipt. The twenty second day (22) following the billing date shall be known as the past due date. (Ord.No. 6032, §1, 6-17-2014)

(b) *Past due fee*. If a bill is not paid before the past due date, a past due fee equal to ten percent (10%) of the current bill amount shall be added to the charges. Provided, however, that the city manager, or his designee, is hereby authorized to waive the "late charge" on the current month's municipal utility bill on a case-by-case basis for municipal utility customers whose principal income is from one of the following sources received on a once-per-month basis: social security, retirement plan, disability income, or state or federal income assistance programs. Persons desiring waiver of the monthly late charge must apply annually in writing to the appropriate city department on such form and in accordance with such procedure as may be prescribed by the department. Provided, further, that the applicant's total annual income from all sources shall not exceed the "low income limits" as published annually by the U.S. Department of Housing and Urban Development. (Ord.No. 6032, §1, 6-17-2014)

9-6-1.7. Delinquent customers.

Any customer whose current bill contains a balance which remains unpaid beyond the past due date shall be considered delinquent; provided further, any account with an unpaid balance greater than fifty-five (55) days from any billing date shall be subject to service disconnection. Any customer who is delinquent on any one municipal utility (water, wastewater, sanitation, and/or stormwater services) or any combination thereof may be disconnected from the municipal water system and, once disconnected, shall not be reconnected or reinstated until payment, or arrangement of payment, of all charges, fees, deposit and penalties necessary to

bring the account(s) to a current status has been made. Any delinquent municipal wastewater, and/or sanitation customer not on the municipal water system may be disconnected or discontinued from the municipal wastewater and/or sanitation system and, once disconnected or discontinued, shall not be reinstated until payment or arrangement of payment, of all charges, fees, deposit and penalties necessary to bring the account(s) to a current status has been made. The city may also refer delinquent customers to a collection agency or attorney for collection on a case-by-case basis. (Ord.No. 6032, §1, 6-17-2014)

9-6-1.8. Municipal utility service application.

Any person, firm or corporation desiring to establish any municipal utility or combination thereof shall make application for said service(s). The application shall be on such form(s) as may now or hereinafter be prescribed by the appropriate utility. The application shall include the name, mailing address, service location, personal identification number (e.g., social security number or driver's license number) or federal identification number (businesses) and signature of the party responsible for payment. Persons applying on behalf of others or acting as an agent for others may provide the required information provided such agent agrees to assume responsibility for the person, firm or corporation upon whose behalf they are applying. Each service location shall be considered a separate account.

9-6-1.9. Utility deposit.

(a) *Utility deposit generally*. Utility deposits shall be required of municipal utility customers in accordance with the provisions of this section. Utility deposits shall be maintained in a separate account and held as security for the payment of municipal utility bills. The utility deposit once so established shall be considered a combined utility deposit for the benefit of any and all municipal utilities received by the customer. Utility deposits shall not be required for federal, state or local government agencies. Utility deposits may not be transferred from one customer to another and must be carried in the name of the person, firm or corporation for whom the service is rendered. In the case of multi-accounts by a single customer, each service location shall be considered a separate account for deposit purposes.

(b) *Residential customer deposit.* All residential customers who establish water, wastewater and/or sanitation service shall be required to provide a utility deposit as follows:

(1) *Initial deposit*. The residential customer's initial deposit shall be based on the customer's credit rating as follows:

*Credit Rating**	*Deposit Required*
good to excellent	*initial deposit waived*
fair or below	*initial deposit required; prior utility letter of recommendation or third party guarantor provided*

*Credit rating shall be based on defined credit scores as determined by the city manager pursuant to criteria promulgated by a selected national credit rating agency.

(2) *Letter in lieu of deposit.* The initial deposit will be waived for any residential customer who can provide a letter of recommendation from another water/wastewater utility demonstrating that the customer had at least 12 consecutive months of service in good standing within the past 24 months with said utility. Customers with less than 24 months of immediate past history with their former municipal utility will not be eligible for this deposit option.

(c) *Commercial deposit*. All commercial or non-residential customers must provide an initial deposit for any new accounts or new service locations regardless of the number of accounts or payment history. Provided, however, that the initial deposit may be waived or reduced based on an account evaluation criteria to be established by the city manager, or his designee and approved by the city manager.

(d) *Deposit application--Service termination.* In the case of default on the utility bill resulting from the termination of service, the utility deposit shall be credited to any unpaid balance on such bill. The total utility deposit shall be applied to each utility based on its balance relative to the total bill. If a delinquent customer, whose service has been disconnected, is reinstated prior to the account being closed, the amount, if any, then on deposit, may be applied toward the reconnect deposit.

(e) *Reconnect deposit.* Prior to the restoration of municipal utility service, any customer whose service has been disconnected or discontinued due to non-payment shall be subject to the following deposit based on the number of service termination occurrences within the customer's most recent twenty-four (24) months' billing history:

First occurrence -- an initial deposit;

Second (or more) occurrence(s) -- the initial deposit plus an amount equal to the average of the monthly charges for the customer's most recent three months (total of past three months current charges divided by three).

9-6-1.10. Utility deposit schedule.

The following initial utility deposit schedule is hereby adopted:

meter size	water	wastewater	sanitation	total
5/8"	$ 20	$ 60	$ 20	$ 100
3/4"	$ 30	$ 90	$ 60	$ 180
1"	$ 40	$ 120	$ 80	$ 240
1.5"	$ 80	$ 240	$100	$ 420
2"	$100	$ 300	$150	$ 550
3"	$200	$ 600	$200	$1,000
4"	$300	$ 900	$300	$1,500
6"	$500	$1,500	$400	$2,400
8"	$600	$1,800	$500	$2,900
10"	$800	$2,400	$600	$3,800

The combined total initial deposit required shall be based on the customer's water meter size and the municipal utilities received. The initial deposit for wastewater and/or sanitation customers not on water service shall be determined by comparing the applicant with similarly situated existing customers on water service.

9-6-1.11. Utility deposit refund.

The municipal utility deposit will be refunded to the customer in accordance with the following provisions:

(a) Upon completion of twelve (12) consecutive months of good payment history; i.e., no penalties or late charges. Said refund shall be in the form of a credit on the customer's applicable monthly utility bill.

(b) Upon termination of municipal utility service and payment of all amounts owed. In this case, the deposit shall be applied to the customer's final municipal utility bill upon service termination. The amount shall be applied in the same manner as the deposit application for service termination (section 9-5-1.9(d) hereof).

9-6-1.12. Service charges.

The following additional fees shall be charged for services provided by the municipal utility:

(a) Administrative charge to existing accounts (e.g., change of service address) ... $5.00 to be added to monthly bill;

(b) Returned check or bank draft charge for insufficient funds ... equal to the maximum amount permitted by A.C.A. §5-37-303. Provided, further, that this charge shall be applicable to all city funds.

(c) Disconnection of service due to nonpayment of bill ... $10.00;

(d) Reconnection of service due to nonpayment of bill:

$10.00 from 8:00 a.m. to 4:00 p.m., regular business days,
$20.00 for after hours, weekends and other non-business days;

(e) Second and subsequent testing of water meter at customer's request within twelve (12) month period ... $15.00 each test. (Should meter be determined to not be operating properly -- no charge);

(f) Meter modifications on the inlet side ... $25.00 ($10.00 turn-off and $15.00 meter change charge);

(g) New service installation or setting of additional water meters--estimated cost of installation as determined by utility personnel; and

(h) New customer account set-up fee ... $ 5.00 to be added to monthly bill.

9-6-1.13. Meter sizing policy.

(a) *New meters*. Minimum water meter sizes shall be determined by the code compliance department in accordance with the city's plumbing code based on the intended use and anticipated flow volumes. Each customer is responsible for all installation and maintenance costs associated with the water service lines from the meter outlet to the customer's service location

(b) *Existing meter changes*. Meter sizes may be reduced upon request from a customer provided the minimum size required by the plumbing code is maintained. A meter modification charge shall be paid by the requesting customer for such meter changes. Any line or plumbing modifications required on the customer's side of the meter shall be the responsibility of the customer.

(c) *Sub-meters*. The municipal water system will not install additional meters at the system's expense on the customer's side of an existing water meter to verify wastewater usage or for other such purposes. If such sub-meters are required, the customer shall pay for the installation and be responsible for meter reading and reporting to the designated city official or office.

9-6-1.14. Tampering.

Any person, firm or corporation that damages a meter, device or other equipment controlling or regulating the supply of any municipal utility service shall be charged a service charge of fifty dollars ($50.00) in addition to any other applicable fees.

9-6-1.15. Unlawful connections.

Any person, firm or corporation who shall make any connection or otherwise avail themselves of a municipal utility service without making proper application and connection for said service shall be charged a service charge of one hundred dollars ($100.00) in addition to all other connection or reconnection fees and penalties.

9-6-1.16. Theft of Services

(a) A person commits theft of services if, with the purpose to defraud:

(1) The person purposely obtains a service that he or she knows to be available only for compensation, by deception, threat, or other means to avoid payment for service; or

(2) Having control over the disposition of a service to which he or she is not entitled, the person purposely diverts the service to his or her own benefit or to the benefit of another person not entitled to the service.

(b) In a circumstance in which payment is ordinarily made immediately upon the rendering of a service, absconding without payment or offer to pay gives rise to a presumption that the actor obtained the service with the purpose of avoiding payment.

(c) Theft of services is a:

(1) Class B felony if:

a. The value of the service is twenty-five thousand dollars ($25,000) or more;

b. The service is obtained by the threat of serious physical injury to any person or destruction of the occupiable structure of another person;

c. The service is obtained by threat, and the actor stands in a confidential or fiduciary relationship to the person threatened; or

d. The theft of services involves a theft of a utility service that results in:

1. Any contamination of a line, pipe, waterline, meter, or other utility property; or

2. A spill, dumping, or release of any hazardous material into the environment;

(2) Class C felony if:

a. The value of the service is less than twenty-five thousand dollars ($25,000) but more than five thousand dollars ($5,000); or

b. The service is obtained by threat; or

(3) Class D felony if the value of the service is five thousand dollars ($5,000) or less but more than one thousand dollars ($1,000); or

(4) Class A misdemeanor if the theft of services:

(a) Involves a theft of a utility services that results in the destruction or damage to a line, pipe, waterline, meter, or any other property of the utility; or

(b) Is otherwise committed

(D) Restitution

(1) In addition to any other fine that may be levied under §5-4-201, any person found guilty of theft of services under this section is required to make full restitution to the utility from which the service was obtained if the theft of services involves the theft of a utility service such as a gas, electricity, water, telephone, or cable television service.

(2) For a prosecution brought under this subsection to enable the court to properly fix the amount of restitution, after appropriate investigation the prosecuting attorney shall recommend an amount that would make the utility whole with respect to:

a. The value of the service received;

b. The cost of repair of any damage to any:

1. Line;
2. Pipe;
3. Waterline;
4. Meter; or
5. Other utility property; and

c. Any other measureable monetary damage directly related to the offense, including the expense of investigation.

(3) If the defendant disagrees with the recommendation of the prosecuting attorney, he or she is entitled to introduce evidence in mitigation of the amount recommended.

(4) The monetary judgment for restitution, as provided in this section, becomes a judgment against the offender and has the same force and effect as any other civil judgment recorded in this state. (Ord. No. 5952, §1, 7-16-2013)

9-6-1.17. Automatic service suspension - Sanitation service.

(a) *Service termination.* Whenever the consumption of water for any single-family dwellings within the corporate limits of the city shall fall below two hundred (200) gallons per month for two (2) consecutive months, it shall be presumed that the premises have become unoccupied; and sanitation billing shall be discontinued.

(b) *Service reinstatement*. In the event sanitation billing has been discontinued for any reason and water consumption shall become in excess of two hundred (200) gallons for any month, it shall be presumed that the premises have become occupied; and sanitation billing shall be reinstated.

9-6-1.18. Regulations.

The city manager is hereby authorized to promulgate such other rules, regulations, policies and procedures as may be required to implement this ordinance and provide for the effective and efficient billing and collection of municipal utilities provided such rules, regulations, policies and procedures are consistent with the provisions of this ordinance

9-6-1.19. Service non-interruption agreement.

The municipal utilities are hereby authorized to enter into service non-interruption agreements with rental property owners in order to facilitate the continuation of municipal utility services. Provided, further, that the city manager or his/her designee is hereby authorized to sign said agreements on behalf of the city. Said agreements shall be in substantially the same form as contained in Exhibit A hereto. Upon each activation of such agreement, the property owner shall be charged the administrative fee as specified in §12 (a) hereof.

Editor's note-Exhibit A is on file in the office of the city clerk.

9-6-1.20. Meter obstruction.

It shall be unlawful for any person to obstruct access to a municipal utility water meter whether in a public right-of-way or on private property. Should any person in violation of this section refuse to remove an obstruction within twenty-four hours (24) after notification to do so, the city shall cause such obstruction to be removed at the owner's expense including but not limited to towing and storage charges for vehicles.

9-6-1.21. Penalty.

The penalty for violation of this ordinance shall, upon conviction in the Hot Springs District Court, or any other court of competent jurisdiction, be such fines and penalties as established by the general penalty clause for the Hot Springs Code of Ordinances as may now or hereafter be enacted by the Hot Springs Board of Directors.

9-6-1.22. Effective date.

This ordinance shall be in full force and effect from and after April 30, 2007.

(Ord. No. 5536, §1, 2-20-07)

9-6-2. - 9-6-4. Reserved.

9-6-5. New utility service - Billing activation - Policy.

All new utility service projects shall be considered to be in "construction" status from the initial water meter set and commencement of billing (water only) until receipt of an approved final plumbing inspection. Upon verification of the final plumbing approval, the account shall be considered "permanent" and wastewater, solid waste and storm-water charges added if the project is also serviced or to be serviced by those utilities. Manufactured homes and/or projects where wastewater service is not available shall be considered as "permanent" from the initial water meter set (no "construction" status). For purposes of this policy, "new utility service" means any connection to the municipal utility system whether by means of new construction or connection of existing structures not previously connected to one or more Hot Springs Municipal utility services. The city manager is hereby authorized to promulgate such administrative policies as necessary to accomplish the intent of this policy not inconsistent with this policy, the uniform municipal utility billing procedure ordinance or the individual utility rate ordinances.

(Res. No. 6879, 6-2-08)

Editor's note - *§9-6-5 was adopted by Resolution but included in the Code of Ordinances due to its permanent nature.*

Cross reference - *§16-4-1 et seq, Subdivision Code.*

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CHAPTER 7

IDENTITY THEFT PREVENTION PROGRAM

9-7-1. Identity theft prevention program - Adoption.

The City of Hot Springs, Arkansas adopts the following Identity Theft Prevention Program.

9-7-1.1. Short title.

This section shall be known as the "City of Hot Springs Identity Theft Prevention Program."

9-7-1.2. Purpose.

The purpose of this section is to comply with 16 CFR § 681.2 in order to detect, prevent and mitigate identity theft by identifying and detecting identity theft red flags and by responding to such red flags in a manner that will prevent identity theft.

9-7-1.3. Definitions.

For the purposes of this Section, the following definitions apply:

(a) *City* means the City of Hot Springs, Arkansas.

(b) *Covered account* means (i) An account that a financial institution or creditor offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions, such as a credit card account, mortgage loan, automobile loan, margin account, cell phone account, utility account, checking or savings account; and (ii) Any other account that the financial institution or creditor offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the financial institution or creditor from identity theft, including financial, operational, compliance, reputation, or litigation risks.

(c) *Credit* means the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefore.

(d) *Creditor* means any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit and includes utility companies and telecommunications companies.

(e) *Customer* means a person that has a covered account with a creditor.

(f) *Identity theft* means a fraud committed or attempted using identifying information of another person without authority.

(g) *Person* means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

(h) *Personal identifying information* includes but is not limited to a person's credit card account information, debit card information, bank account information and drivers' license information and for a natural person includes their social security number, mother's birth name, and date of birth.

(i) *Red flag* means a pattern, practice, or specific activity that indicates the possible existence of identity theft.

(j) *Service provider* means a person that provides a service directly to the city.

9-7-1.4. Findings.

The Federal Trade Commission "FTC" requires every utility, including public water and wastewater systems, such as the City of Hot Springs Municipal Utilities, to implement an Identity Theft Prevention Program (ITPP). The FTC requirements and regulations are necessary because of § 114 of the Fair and Accurate Credit Transactions Act (FACTA). The FTC has set forth the ITPP requirement in 16 CFR § 681.2. Identity theft is defined as fraud committed or attempted using identifying information of another person without authority. The City of Hot Springs adopts the program set forth in this chapter to comply with FTC rules and regulations. In drafting its ITPP, the city has considered: (1) the methods it provides to open accounts; (2) the methods it provides to access its accounts; and (3) its previous experiences with identity theft. Based on these considerations, the Board of Directors hereby determines that the City of Hot Springs Municipal Utility is a low to moderate risk entity, and as a result develops and implements the streamlined ITPP set forth hereto. Further, the city determines that the only covered accounts offered by the city are those under its water, wastewater, sanitation and stormwater utilities.

9-7-1.5. Red flags.

The FTC regulations identify numerous red flags that must be considered in adopting an ITPP. The FTC has defined a red flag as a pattern, practice, or specific activity that indicates the possible existence of identity theft. Any time a red flag or a situation closely resembling a red flag is apparent, it should be investigated for verification. The city identifies the following red flags from the examples provided in the regulations of the FTC:

(a) Notifications from Consumer Reporting Agencies:

(1) Alerts, notifications or warnings from a consumer reporting agency;

(2) A fraud or active duty alert included with a consumer report;

(3) A notice of credit freeze from a consumer reporting agency in response to a request for a consumer report;

(4) A notice of address discrepancy from a consumer reporting agency as defined in § 334.82(b) of the Fairness and Accuracy in Credit Transactions Act;

(5) An account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor;

(6) A recent and significant increase in the volume of inquiries.

(b) Suspicious documents-Possible red flags include:

(1) Documents provided for identification that appears to have been altered or forged;

(2) The photograph or physical description on the identification is not consistent with the appearance of the applicant or customer presenting the identification;

(3) Other information on the identification is not consistent with information provided by the person opening a new covered account or customer presenting the identification;

(4) Other information on the identification is not consistent with readily accessible information that is on file with the city, such as an account application;

(5) An application appears to have been altered or forged, or gives the appearance of having been destroyed and reassembled.

(c) Suspicious personal identifying information-Possible red flags include:

(1) Personal identifying information is being provided by the customer that is not consistent with other personal identifying information provided by the customer or is not consistent with the customer's account application;

(2) Personal identifying information is associated with known fraudulent activity;

(3) The social security number (if required or obtained) is the same as that submitted by another customer;

(4) The telephone number or address is the same as that submitted by another customer;

(5) The customer or the person opening the covered account fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete;

(d) Unusual use of or suspicious activity related to the covered account. Possible red flags include:

(1) A change of address for an account followed by a request to change the account holder's name;

(2) An account is not being used in a way that is consistent with prior use (such as late or no payments when the account has been timely in the past or a material change in usage patterns);

(3) A new account is used in a manner commonly associated with known patterns of fraudulent activity (such as customer fails to make the first payment or makes the first payment but no subsequent payments);

(4) Mail sent to the account holder is repeatedly returned as undeliverable;

(5) The city receives notice that a customer is not receiving his paper statements;

(6) The city receives notice of unauthorized activity on the account.

(e) Notice regarding possible identity theft. Possible red flags include notice from a customer, an identity theft victim, law enforcement personnel or other reliable sources regarding possible identity theft or phishing related to utility accounts.

9-7-1.6. Proof of identity.

Any person or entity opening a utility account shall provide a complete application and provide satisfactory evidence of his/her identity and/or address. Said proof may include, but not be limited to: a valid driver's license; passport; state, federal, employer, or school issued identification card; or military identification card. The required application must be completed in its entirety and must be signed in order to establish a utility account.

9-7-1.7. Confidentiality of applications and account information.

All personal information, personal identifying information, account applications and account information collected and maintained by the city shall be a confidential record of the city and shall not be subject to disclosure unless otherwise required by state or federal law. Additionally, any employee with access to utility customers' personal information, account applications or account information shall be required to keep such information in confidence and protect the privacy of customers, and may be required to execute and abide by a written confidentiality policy.

9-7-1.8. Access to utility account information.

Access to utility account information shall be limited to employees that provide customer service and technical support to the city's utilities. Any computer that has access to utility customer account or personal identifying information shall be password protected and all computer screens shall lock after no more than fifteen (15) minutes of inactivity. All paper and non-electronic based utility account or customer personal identifying information shall be stored and maintained in a locked room or cabinet and access shall only be granted by the compliance officer or his/her designee, or in the alternative shall be scanned for secure, password protected, digital storage, and then shredded.

9-7-1.9. Credit card transactions.

Credit card transactions shall only be processed by a third-party processor that complies with all appropriate credit card processing requirements of the card issuer. Credit card payments made to the city shall comply with the merchant agreement and/or card holder's agreement. Credit card payments shall require a reasonable connection between the person or entity billed for the utility services and the credit card owner.

9-7-1.10. Suspicious transactions.

Suspicious transactions include, but are not limited to the presentation of incomplete applications; unsigned applications; payment by someone other than the person named on the utility account; presentation of inconsistent signatures, addresses or identification. Suspicious transactions shall not be processed and shall be immediately referred to the compliance officer.

9-7-1.11. Action.

Once potentially fraudulent activity is detected, appropriate actions must be taken immediately. Actions may include:

(a) Canceling the transaction;

(b) Determining the extent of liability of the city;

(c) Notifying the actual customer that fraud may have been attempted;

(d) Notifying and cooperating with appropriate law enforcement.

9-7-1.12. Notification of law enforcement.

The finance director or his/her designee shall use his/her discretion on whether to report suspicious transactions to the police department or other appropriate law enforcement.

9-7-1.13. Compliance officer and training.

The compliance officer for this ITPP shall be the finance director or his/her designee. The compliance officer shall conduct training of all city utility employees that transact business with customers of the city's utilities. The compliance officer shall periodically review this program and recommend any necessary updates to the board of directors.

9-7-1.14. Oversight of service providers.

(a) It is the responsibility of the city to ensure that the activities of all service providers are conducted in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of identity theft.

(b) A service provider that maintains its own identity theft prevention program, consistent with the guidance of the red flag rules and validated by appropriate due diligence, may be considered to be meeting these requirements.

9-7-1.15. Annual report.

An annual report, as required by FTC regulations, shall be provided to the city manager by each city division where red flag rules apply. The contents of the annual report shall address and/or evaluate at least the following:

(a) The effectiveness of the policies and procedures of the city in addressing the risk of identity theft in connection with the opening of utility accounts and with respect to access to existing utility accounts;

(b) Software, credit-card processing, and other service provider arrangements;

(c) Any incidents involving identity theft, or suspected identity theft, with utility accounts and the city's remedial response;

(d) Any changes, or proposed changes, in methods to identify identity theft and/or prevent identity theft;

(e) Any recommendations for changes or modifications to the city's ITPP.

(Ord. No. 5718, §1, 5-5-09)