

**CHAPTER 28
WATER AND SEWER**

Art. I. In General, §§ 28-1-28-17

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ARTICLE I. In General

Sec. 28-1. Water Rate and Charges.

a. **Water Rate and Charges.**

Water Rates: The water usage of each customer that is connected to the municipal water system shall be determined each month by meter measurement and the amount to be paid for water usage by each customer or user shall be computed on the following schedules of rates with the new rate to be paid with the statement to be issued on November 25th, 2013:

Residential, Commercial & Industrial Water Schedule A Rates

Monthly Customer Charge	\$8.44
Monthly water service cost	\$1.95 per 1,000 gallons

Residential, Commercial & Industrial Water Schedule B Rates

Monthly Customer Charge	\$8.44
Monthly water service cost	\$1.95 per 1,000 gallons

The above rates shall be adjusted annually based on the Consumer Price Index for the preceding year or 3%, whichever is less, effective July 1st of each year and annually thereafter with the first such rate increases to take effect on July 1, 2014.”

b. **Minimum meter charges.** The minimum monthly water charge based on meter size shall be determined in accordance with the following schedule:

5/8" meter.....	\$ 3.00
3/4" meter.....	3.00
1 " meter.....	5.00
1 ½ "meter.....	10.00
2 " meter.....	16.00
3 " meter.....	30.00
4 " meter.....	50.00
6 " meter.....	100.00

- c. **Hydrant rental.** Customers maintaining fire hydrants on their premises shall be charged forty-four dollars and four cents (\$44.04) per annum (or three dollars and sixty-seven cents (\$3.67) per month) for each hydrant maintained for use of City fire equipment. This charge also subject to provisions of paragraph (d).
- d. **Sprinkler system.** Any customer maintaining a sprinkler system for fire protection shall, in addition to the regular monthly water charge, pay the following additional charge:

<i>Main Connection</i>	<i>Charge per Year</i>	<i>or</i>	<i>Charge per Month</i>
4 inches	\$ 65.04		\$ 5.42
6 inches	82.08		6.84
8 inches	108.00		9.00
10 inches	150.00		12.50

Additional heads over the minimum allowed at eight cents (\$0.08) each.

These charges will be billed on a monthly base of one-twelfth (1/12) of the annual fee per month.

For the customers with both the sprinkler system and the fire hydrants, there will be no dual charge but the annual (or monthly) charge will be based on the greater of the two (2), to-wit: The sprinkler rate as opposed to the charge per hydrant time the hydrants located on private property.

- e. **Connection charge.** (A) For each customer connection to the water system situated within the Searcy City limits there shall be charged:

5/8" meter.....	\$200.00
1" meter.....	300.00

All larger than 1" meter - Actual cost, material, labor and overhead, but not less than \$300.00.

(B) For each customer connection to the water system situated outside the Searcy City limits, there shall be charged:

5/8" meter.....	\$400.00
1" meter.....	600.00

All larger than 1" meter - Actual cost, material, labor and overhead, but not less than \$600.00.

- f. **Apartments and separate dwelling units.** Each family or business shall be

considered as a separate customer or user. Each apartment in an apartment house or dwelling and each separate dwelling unit, including trailers, shall be considered as a separate unit, provided this subsection shall not apply to motels or hotels operated as such.

- g. ***Multiple user unit billing.*** Except in the case of fire hydrants, and except where multiple user units are connected to one supply line, separate meters shall be installed for each consumer and/or user, both public and private. In the case of multiple user units connected to one supply line, one meter may be installed but the owner, landlord, and/or operator shall be billed by dividing the amount of water consumed by the number of units and then applying the present rate. Any unit of a multiple unit not occupied for a full period covered by a monthly billing may be eliminated and not paid for if notice, prior to billing, is given the Board of Public Utilities. Occupancy will be assumed unless such notice is given prior to each monthly billing.
- h. ***Advance deposits.*** The Searcy Board of Public Utilities (Utility) shall require a deposit from any applicant for water and/or sewer service to guarantee payment for the service. The amounts of deposits shall be as follows: (1) \$40.00 for new residential customers, (2) Apartment complexes and trailer parks: A deposit equal to \$40.00 per apartment or trailer space within the park, (3) Other commercial: A deposit equal to but not limited to the water and sewer connection fee. Commercial customers which can show the water and sewer bill for two months to be less than the connection fees may request that the deposit be reduced. The Utility may require additional deposit from customers to guarantee payment for the services for the following reasons: service to the customer has been discontinued for failure to pay a delinquent account; the customer has rendered two insufficient fund checks to the Utility in the preceding twelve months; the customer has misrepresented his identity for the purpose of obtaining service; the customer has engaged in unauthorized or fraudulent use of procurement of service or tampering with pipes, meters or other utility equipment; the customer has failed to make payment of amounts due for 2 consecutive months.

The amount of such additional deposit requirement shall be set by the Searcy Board of Public Utilities or its system manager. Nothing in this provision shall restrict the right of the Utility to discontinue service in lieu of requiring additional deposit. Upon final discontinuation of service, the Utility shall apply the existing deposit to any amount due. Any balance due the customer shall be promptly refunded. When a customer requests transfer of service to a new location, and the new service is commenced within 180 days of the request, the customer shall not be required to make an additional deposit, except as may be required above due to the customer's improper handling of the customer's account.

- i. **Rates for colleges and institutions.** All non-residential college or institutional buildings belonging to one institution may be put on one meter and billed as one consumer, where it is feasible to so connect such buildings; otherwise, however, the buildings shall be metered separately. Each dormitory shall be put on a separate meter and billed as one consumer.

- j. **Monthly billings.** Bills for water service shall be rendered monthly and if not paid before the tenth day following the original date of billing, a ten percent (10%) penalty shall be added to the bill. If the bill is not paid within thirty (30) days from the original date of billing, service shall be discontinued and the premises shall be disconnected from the waterworks system. The meter shall be read and billings made upon a period of thirty (30) days, the same to be determined by the Board of Public Utilities at any date of the calendar month. A charge of three dollars (\$3.00) shall be made for reconnecting a delinquent premise. (Ord. No. 432, §1, 12-2-60; Ord. No. 641, § 1-3, 6-9-81; Ord. No. 667, 7-17-84; Ord. No. 91-21, 11-26-91)

Sec. 28-2. Sewer Rates and Charges

a. Sewer Rates and Charges

Sewer Rates: The sewer charges based upon the water usage of each customer that is connected to the municipal water system shall be determined each month by meter measurement and the amount to be paid for the sewer charges based upon the water usage by each customer or user shall be computed on the following schedules of rates with the new rate to be paid with the statement to be issued on November 25th, 2013:

Residential, Commercial & Industrial Sewer Schedule A Rates

Monthly Sewer Customer Charge	\$8.44 (includes 2,000 minimum use)
Over 2,000 gallons sewer service	\$1.95 per 1,000 gallons

Residential, Commercial & Industrial Sewer Schedule B Rates

Monthly Sewer Customer Charge	\$16.50 (includes 2,000 minimum use)
Over 2,000 gallons sewer service	\$1.95 per 1,000 gallons

The above rates shall be adjusted annually based on the Consumer Price Index for the preceding year or 3%, whichever is less, effective July 1st of each year and annually thereafter with the first such rate increases to take effect on July 1, 2014.” (Ord. No. 432, § 2, 12-2-60; Ord. No. 562, § 2, 10-9-73; Ord. No. 628, §§ 1,2, 6-10-80; Ord. No. 93.08, §§ 1-4, 2-9-93; Ord. No. 663, 10-11-83; Ord. No. 682, 3-12-85; Ord. No. 91-22, 12-5-91; Ord.13-30 § 28-1 & § 28-2)

Section 28-2A:

- a. In addition to the regular rates in effect, the following charges shall be imposed on all commercial and industrial users of the Wastewater Collection System of the City of Searcy, Arkansas:

- i. There shall be a surcharge of \$0.05 per pound for discharge with concentrations of BOD5 in excess of 225 mg/l (milligrams per liter) to be computed by use of the following formula:

$$SB = \frac{(V) (1000) (8.33)}{1,000,000} (CB - 225) (0.05)$$

Where:

SB = Surcharge for BOD5 in excess of 225 mg/l

V = Volume in 1000 gallons per month

CB = Concentration of BOD5 in mg/l
BOD5 (Biochemical Oxygen Demand) is defined as:

The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at 20 degrees centigrade expressed in terms of weight and concentration - milligrams per liter (mg/l).

- ii. There shall be a surcharge of \$0.054 per pound for discharge with concentrations of Total Suspended Solids (TSS) in excess of 225 mg/l to be computed by use of the following formula:

$$STS = \frac{V (1000) (8.33)}{1,000,000} (CTS - 225) (0.054)$$

Where:

STS = Surcharge for TSS in excess of 225 mg/l

V = Volume in 1000 gallons per month

CTS = Concentration of TSS in mg/l

- iii. There shall be a surcharge of \$0.01 per pound for discharge with concentrations of oil and grease (O & G) in excess of 100 mg/l to be

computed by use of the following formula:

$$SO\&G = \frac{(V)(1000)(8.33)}{1,000,000} (CO\&G - 100)(0.01)$$

Where:

SO&G = Surcharge for oil and grease in excess of 100 mg/l

V = Volume in 1000 gallons per month

CO&& = Concentrations of oil and grease in mg/l

- b. Surcharges for the above-mentioned pollutants shall be computed separately. In the event of discharge containing more than one type of these pollutants, there shall be a separate surcharge imposed for each pollutant. There shall be no credit or reduction of surcharges for a specific pollutant because of lower concentrations of other pollutants.
- c. Discharges of such pollutants and concentrations of such pollutants shall be monitored as set forth in Sections 28-26 et seq. dealing with Sewage Pretreatment.

The Board of Public Utilities is hereby given authority to establish time periods during which flow shall be monitored for purpose of determining whether flow exceeds the standards set forth herein and to set other policies necessary to the proper enforcement hereof

- d. The City reserves the right to make any necessary changes in the levels of concentration which will lead to imposition of a surcharge and to the surcharge to be imposed for specific concentrations. (*Ord. No. 679, §§ 1-4, 11-13-84*)

Sec. 28-3. Bond Revenue.

Nothing herein is intended to reduce the total revenue to be derived from the water and sewer system from that which would be collectible under the rates established for water and sewer service at the time of the passage of Ordinance No. 305, Ordinance No. 337, and Ordinance No. 385 (water and sewer bond ordinances), it being the intention of the City in the adoption of this article to equalize its water and sewer rates to the end that an equal or greater amount of revenue will be derived by the use of such rates. (*Ord. No. 432, § 3, 12-2-60; Ord. No. 562, § 3, 10-9-73*)

Sec. 28-4. Sales Taxes Added.

All taxes under the Arkansas Gross Receipts Law or any taxes levied by the United States

Government upon the charges herein provided for shall be added to the total billing each month. (Ord. No. 432, § 4, 12-2-60; Ord. No. 562, § 6, 10-9-73)

Sec. 28-5. Additional Charge for Elevated Area; Water and Usage.

- a. The Board of Public Utilities may charge in addition to the basic water and sewer rates provided, an additional charge sufficient to defray the actual costs that result from pumping water to elevated areas where sufficient pressure cannot be otherwise maintained. Likewise, for providing pumps and pressure lines for sewage in areas that cannot be served by gravity flow. Such charges shall be based on actual operating cost, plus depreciation and estimated repairs on pumping equipment. In the event elevated storage tanks are required, such additional charge shall be on a basis of the annual cost of the additional pumping cost plus amortization of any indebtedness incurred in the construction of such tanks. (Ord. No. 562, § 4, 10-9-73)

Sec. 28-6. Additional Charge for Industrial Waste Treatment.

- a. Where the Board of Public Utilities takes action to require payment under section 29-22(e), the following cost recovery formula may be used.
- b. The following formula will be used to determine monthly sewer charges for industries in the City:

$$I.C. = jV + V/V:$$

I.C. = Industrial charge per month

V = Volume of water used by industry in thousands of gallons per month

j = Basic rate in dollars per thousand gallons

a = Monthly cost of operation and maintenance of treatment facility

V: = Total volume of water used by the City in thousands of gallons per month
The basic sewer rate, "j", will be as per rate schedule otherwise adopted by the City.

The value for "a" will be determined by the City based on their anticipated annual operation and maintenance costs.

- c. In the event an industry refuses to pay charges as defined in paragraph (b), the City shall have the authority to stop the flow of that industry's waste from entering into the principal sewer system. (Ord. No. 562, § 7, 10-9-73)

Sec. 28-7. Water Conservation and Rationing Measures Authorized.

That it is hereby determined that in order for the Searcy Board of Public Utilities to provide and maintain a sufficient and manageable 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 water system of the city of Searcy, it is necessary to manage water service demands on the water supply, transmission and distribution system of the Searcy Water System by limiting water consumption through restrictions and prohibitions on the use of water during certain times as set out below.

That this Section 28.7 and the conservation and rationing measures authorized under Conservation Situation (Phase I) and Advanced Conservation Situation (Phase II) shall apply to the following water users of the Searcy water system if so designated by the Manager of the Searcy Water System, or his designated agent, the water users being as follows, to-wit:

- a. All residential water users of the Searcy Water System.
- b. Conservation Situation (Phase I) shall apply to all commercial and industrial users, but only to restrict outside watering of lawns, shrubs, plants and trees in accordance with Section 3 hereinafter.
- c. All commercial and industrial water users of the Searcy Water System shall be subject to the conservation measures under an Advanced Conservation Situation (Phase II) as set forth in Section 4 hereinafter.
- d. All wholesale water users supplied by the Searcy Board of Public Utilities shall not be subject to the terms and provisions of this Article, but in the event an Advanced Conservation Situation (Phase II) is declared to exist, the Searcy Board of Public Utilities shall implement the water restriction provisions contained in the wholesale water contracts between the Searcy Board of Public Utilities and the aforesaid wholesale water purchasers.

That this Section 28-7 shall become effective to the users as defined above and as to the water provided for by the Searcy Water System as determined by the Manager of the Searcy Water System, or his designated agent, when, in the opinion of the Manager of the Searcy Water System, or his designated agent, the ability of the Searcy Water System has been impaired and it cannot provide adequate or safe water to the water system users due to water availability, water treatment ability, storage capacity, transmission or distribution problems.

In the event the Manager of the Searcy Water System, or his designated agent, determines that this Section 28-7 should become effective to any of the aforesaid users of the water system, a Conservation Situation (Phase I) shall be declared to exist and any of the aforesaid users so designated and in the designated area or areas shall be restricted to outside watering of lawns, shrubs,

plants, trees and gardens by hand-held hose while the user is physically present. Residential users with even-numbered addresses or box numbers may water with hand-held hose on even-numbered days. Residential users of water with odd-numbered addresses or box numbers may water with hand-held hose on odd-numbered days. No watering is permitted between 9:00 a.m. and 6:00 p.m.

In the event the aforesaid Conservation Situation (Phase I) declaration does not cure or allow the Searcy Water System to eliminate the adequacy or safety problem which exists with the water system, or whenever any other emergency exists as determined by the Manager of the Searcy Water System, or his designated agent, an Advanced Conservation Situation (Phase II) shall be declared to exist and go into effect. During Phase II, any of the aforesaid users so designated in the area or areas designated by the Manager of the Searcy Water System, or his designated agent, shall be prohibited from any outside water use and any other restrictions as directed by the Manager of the Searcy Water System, or his designated agent, until further notice. Notification to the aforesaid users in the designated area or areas shall be by any reasonable means, which may include, but are not limited to, media coverage, hand-delivered printed notices, telephone calls, or door-to-door notices.

That this Section 28-7 shall apply to any of the aforesaid users of water, if so designated, provided by the Searcy Water System in the designated area or areas as determined by the Manager of the Searcy Water System, or his designated agent. Whenever an emergency exists as determined by the Manager of the Searcy Water System, 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 Manager of the Searcy Water System, or his designated agent, the authority to implement the conservation measures of Phase I and/or Phase II and any 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 Searcy Board of Public Utilities for the Searcy Water System, at which time the Board shall decide whether it is necessary to continue the said measures.

The failure to comply with or a violation of any requirements contained in this Section 28-7 by any user of water from the Searcy Water System is hereby declared to be unlawful, and any user of water subject to the jurisdiction of the City, upon being convicted of such unlawful act, shall be deemed guilty of a misdemeanor and shall be fined in accordance with the following schedule:

First Violation	not more than \$200.00
Section Violation	not less than \$250.00 nor more than \$500.00
Third Violation and each Subsequent Violation	not less than \$500.00 nor more than \$1,000.00

Provided, however, that before any criminal action is prosecuted, the Searcy Board of Public

Utilities shall notify the alleged violator and afford the alleged violator the opportunity to present any information or defense to the alleged violation to the Searcy Board of Public Utilities in writing or in a meeting with the Searcy Board of Public Utilities. It is further authorized that in the prosecution for a first violation only, any and all Court costs can be waived. (*Ord. No. 94-04, 3-8-94*)

Sec. 28-8. - 28-17. Reserved.

ARTICLE 11. Sewage Disposal.

Sec. 28-18. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

1. *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 twenty (20) degrees centigrade, expressed in milligrams per liter.
2. *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.
3. *Building sewer* shall mean the extension from the building drain to the public sewer or other place of disposal.
4. *Combined sewer* shall mean a sewer receiving both surface run-off and sewage.
5. *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.
6. *Industrial wastes* shall mean the liquid wastes from industrial manufacturing processes, trade, of business as distinct from sanitary sewage.
7. *Natural outlet* shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.
8. *Person* shall mean any individual, firm, company, association, society, corporation or group.
9. *pH* shall mean the logarithm of the reciprocal of the weight of hydrogen ions in

grams per liter of solution.

10. *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 particle greater than one-half (½) inch (1.27 centimeters) in any dimension.
11. *Public sewer* shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
12. *Sanitary sewer* shall mean a sewer which carries sewage and to which storm, surface and groundwaters are not intentionally admitted.
13. *Sewage* shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground surface, and storm waters as may be present.
14. *Sewage treatment plant* shall mean any arrangement of devices and structures used for treating sewage.
15. *Sewage works* shall mean all facilities for collecting, pumping, treating, and disposing of sewage.
16. *Sewer* shall mean a pipe or conduit for carrying sewage.
17. *Shall* is mandatory; *may* is permissive.
18. *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 than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.
19. *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.
20. *Superintendent* shall mean the superintendent of sewage works of the City of Searcy, Arkansas or his authorized deputy, agent or representative.
21. *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.
22. *Watercourse* shall mean a channel in which the flow of water occurs, either

continuously or intermittently. *(Ord. No. 557, Art. I, §§ 1-22, 1-8-73)*

Sec. 28-19. 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 Searcy, 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 Searcy, 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 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 article, within 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. 557, Art. II, §§ 1-4, 1-8-73)*

Sec. 28-20. Private Sewage Disposal.

- a. Where a public sanitary sewer is not available under the provisions of Section 28-19, the building sewers shall be connected to a sewage disposal system approved by the Arkansas State Board of Health and, in particular, the rules and regulations pertaining to sewage disposal systems promulgated by the Arkansas State Board of Health.
- b. That at such time as a public sanitary sewer becomes available to service any property utilizing a private sewage disposal system, such property shall be connected to the public sanitary sewer system as provided in Section 28-19, and any private sewage disposal system shall be abandoned, cleaned of sludge and other debris and filled with suitable material within ninety (90) days of the public sanitary sewer system becoming available for service to the property. *(Ord. No. 557, Art. III, §§ 1-8, 1-8-73; Ord. No. 94-08, 4-12-94)*

Sec. 28-21. 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 appurtenances thereof without first obtaining a written permit from the superintendent.
- b. All costs and expense incident to the installation and connection of the building sewer shall be done 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.
- c. 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 building sewer.
- d. 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 article.
- e. 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. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.
- f. 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.
- g. 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.
- h. 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 gas tight and watertight. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

- i. 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.
- j. 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. 557, Art. IV, §§ 1-10, 1-8-73*)

Sec. 28-22. Use of the Public Sewers.

- a. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.
- b. Storm water 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:
 - i. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
 - ii. 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 two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.

- iii. Any waters or wastes having a pH lower than 5.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.
 - iv. 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:
- i. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit (sixty-five (65) degrees Centigrade).
 - ii. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees Fahrenheit (zero (0) and sixty-five (65) degrees Centigrade)
 - iii. 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.
 - iv. Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions whether neutralized or not.
 - v. Any waters or waste containing iron, chromium, copper, zinc and

similar objectionable or toxic substances, or wastes exerting and 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.

vi. 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.

vii. 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.

viii. Materials which exert or cause:

(1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

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

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

(4) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

ix. 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 paragraph (d) of this section, and which in the judgment of the superintendent may have a 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:

- i. Reject the wastes.
- ii. Require pretreatment to an acceptable condition for discharge to the public sewers.
- iii. Require control over the quantities and rates of discharge and/or;
- iv. 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 paragraph (j) of this article.

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 analysis of the characteristics of waters and

wastes to which reference is made in this 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 section 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.
- k. When an existing building sewer is to be abandoned for any reason, it shall be sealed to prevent the entrance of water or debris into the sewer system. The seal shall be placed at the property line or as authorized by the manager of the sewer system operated in the City of Searcy. The line shall be sealed and inspected by Searcy Water Utilities prior to the demolition of any structure. *(Ord. No. 557, Art. V, §§ 1-10, 1-8-73; Ord No. 2020-42 § 1(k))*

Sec. 28-23. Unauthorized Tampering with Equipment.

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. 557, Art. VI, § 1, 1-8-73)*

Sec. 28-24. 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 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 paragraph (a) above, the superintendent or fully 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 28-22(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 easement, which work shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. *(Ord. No. 557, Art. VII, §§ 1-3, 1-8-73)*

Sec. 28-25. Penalties.

- a. Any person found to be violating any provision of this article, except Section 28- 23, 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. Any person who shall continue any violation beyond the time limit provided for in paragraph (a) above, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding twenty-five dollars (\$25.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.
- c. Any person violating any of the provisions of this article shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation. *(Ord. No. 557, Art. VIII, §§ 1-3, 1-8-73)*

ARTICLE III. Sewage Pretreatment.

Section 28-26. General Provisions.

Sec. 28-26-1 **Purpose and Policy.**

This Article sets forth uniform requirements for Users of the Publicly Owned Treatment Works for the City of Searcy, Arkansas and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 U.S.C. section 1251 et seq.) and the General Pretreatment Regulations (40 CFR Part 403). The objectives of this Article 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 encourage pollution prevention in waste reduction prior to recycling, treatment or disposal; 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 Article shall apply to all Users of the Publicly Owned Treatment Works. The Article authorizes the issuance of individual 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. *(Ord. No. 2011-9 § 1, 2-15-11)*

Sec. 28-26-2 **Administration.**

Except as otherwise provided herein, the General Manager of the Searcy Water and Sewer System shall administer, implement, and enforce the provisions of this Article. Any powers granted to or duties imposed upon the General Manager may be delegated by the General Manager to a duly authorized employee of the Searcy Water and Sewer System. *(Ord. No. 2011-9 § 1, 2-15-11)*

Sec. 28-26-3 **Abbreviations.**

The following abbreviations, when used in this Article, 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

IU - Industrial User

mg/l - milligrams per liter

NPDES - National Pollutant Discharge Elimination System

NSCIU - Non-Significant Categorical Industrial User

POTW - Publicly Owned Treatment Works

RCRA - Resource Conservation and Recovery Act

SBPU - Searcy Board of Public Utilities

SIU - Significant Industrial User

SNC - Significant Noncompliance

SWSS - Searcy Water and Sewer System

TSS - Total Suspended Solids

U.S.C. - United States Code - *(Ord. No. 2011-9 § 1, 2-15-11)*

Definitions

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

- A. Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq.
- B. Approval Authority. The Arkansas Department of Environmental Quality.
- C. Authorized or Duly Authorized Representative of the User.

(1) If the User is a corporation:

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

(b) The manager of one or more manufacturing, production, or operating facilities, provided the 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 manager in accordance with corporate procedures.

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

(3) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) The individuals described in paragraphs 1 through 3, above, may designate a Duly 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 City.

- D. Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).
- E. Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 28-27-1 A and B [40 CFR 403.5(a)(1) 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.
- F. 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. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405 471.
- G. Categorical Industrial User. An Industrial User subject to a categorical Pretreatment Standard or categorical Standard.
- H. City. The Searcy Board of Public Utilities d/b/a the Searcy Water and Sewer System.
- I. Chemical Oxygen Demand or COD. A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.
- J. Control Authority. The The Searcy Board of Public Utilities-Searcy Wastewater Treatment Facility d/b/a Searcy Water and Sewer System.
- K. Daily Maximum. The highest allowable "daily discharge" during the calendar month.
- L. Daily Maximum Limit. 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.
- M. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.
- N. Existing Source. Any source of discharge that is not a "New Source."

O. General Manager. The person designated by the Searcy Board of Public Utilities to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this Article. The term also means a Duly Authorized Representative of the General Manager.

P. Grab Sample. A sample that 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.

Q. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any nondomestic source.

R. Instantaneous 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.

S. Interference. A discharge that, 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.

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

U. 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.

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

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

X. New Source.

(1) 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 that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

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

(b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or

(c) The production or wastewater generating 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.

(2) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:

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

(i) any placement, assembly, or installation of facilities or equipment; or

(ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment 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.

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

Z. Pass Through. A discharge which exits the POTW into waters of the State in quantities or concentrations which, alone 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.

AA. 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.

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

CC. 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).

DD. 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.

EE. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

FF. Pretreatment Standards or Standards. Pretreatment Standards shall mean prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.

GG. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 28-27-1 of this Article.

HH. Publicly Owned Treatment Works or POTW. A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by the 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.

II. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

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

KK. Significant Industrial User (SIU).

Except as provided in paragraphs (3) and (4) of this Section, a Significant Industrial User is:

(1) An Industrial User subject to categorical Pretreatment Standards; or

(2) An Industrial User that:

(a) 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);

(b) 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

(c) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

(3) Upon a finding that a User meeting the criteria in Subsection (2) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the City may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a Significant Industrial User.

LL. Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 28-27-1 of this Article. 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 violate the POTW's regulations, Local Limits or Permit conditions.

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

NN. Total Suspended Solids or Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

OO. User or Industrial User. A source of indirect discharge.

PP. 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.

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

RR. 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 the State of Arkansas or any portion thereof.

Section 28-27 - GENERAL SEWER USE REQUIREMENTS.

Sec. 28-27-1 Prohibited Discharge Standards.

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 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;

- (2) Wastewater having a pH less than 5.0 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, but in no case solids greater than one-half inch (1/2") or one and three-tenths centimeter(s) (1.3 cm) in any dimension;
- (4) Pollutants, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause Interference with the POTW;
- (5) Wastewater having a temperature which will inhibit biological activity in 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 degrees F (40 degrees 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 General Manager in accordance with Section 28-28-4 of this Article;
- (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 General Manager;

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

(14) Medical Wastes, except as specifically authorized by the General Manager in an individual wastewater discharge permit;

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

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

(17) Wastewater causing any single reading on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than ten percent (10%) 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. (*Ord No. 2011-9 § 1,2-15-11*)

Sec. 28-27-2 National Categorical Pretreatment Standards.

Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471.

A. When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the General Manager may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users. See 40 CFR 403.6(c)(2).

B. When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the General Manager shall impose an alternate limit in accordance with 40 CFR 403.6(e).

C. A CIU may obtain a net/gross adjustment to a categorical Pretreatment Standard in accordance with the following paragraphs of this Section. See 40 CFR 403.15.

(1) Categorical Pretreatment Standards may be adjusted to reflect the presence of pollutants in the Industrial User's intake water in accordance with this Section. Any Industrial User wishing to obtain credit for intake pollutants must make

application to the City. Upon request of the Industrial User, the applicable Standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraph (2) of this Section are met.

(2) Criteria.

a. Either (i) The applicable categorical Pretreatment Standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or (ii) The Industrial User demonstrates that the control system it proposes or uses to meet applicable categorical Pretreatment Standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.

b. Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease should not be granted unless the Industrial User demonstrates that the constituents of the generic measure in the User's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

c. Credit shall be granted only to the extent necessary to meet the applicable categorical Pretreatment Standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with Standard(s) adjusted under this Section.

d. Credit shall be granted only if the User demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The City may waive this requirement if it finds that no environmental degradation will result.

D. Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this Section 28-27-2 in lieu of the promulgated categorical Standards from which the equivalent limitations were derived. See 40 CFR 403.6(c)(7).

E. Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the General Manager within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the General Manager of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate. See 40 CFR 403.6(c)(9). (*Ord. No. 2011-9 § 1, 02-15-11*)

Sec. 28-27-3

State Pretreatment Standards.

Users must comply with State Pretreatment Standards in any case where they are more stringent than Federal requirements. (*Ord. No. 2011-9 § 1, 02-15-11*)

Sec. 28-27-4 Local Limits.

A. The General Manager is authorized to establish Local Limits pursuant to 40 CFR 403.5(c).

B. No person shall discharge any waters or wastes into the wastewater system of the City, at a concentration which would exceed the concentration of pollutants prohibited by any federal, state or local rule, regulation or law, including but not limited to, the concentration of pollutants identified in the "Technically-Based Local Limits Development Document" or the "Industrial Pretreatment Program" as developed by and issued by the General Manager, and as directed, approved and adopted by the Searcy Board of Public Utilities, the Arkansas Department of Environmental Quality or the Environmental Protection Agency.

The General Manager will develop and assign specific discharge limitations for pollutants for permitted Users based on the criteria approved by the Searcy Board of Public Utilities and as directed, approved or adopted by the Arkansas Department of Environmental Quality or the Environmental Protection Agency. The specific permit limits shall ensure that the local limit pollutant concentrations will protect the publicly owned treatment works (POTW) from improper concentration levels, endangerment, or render the POTW sludge unacceptable or in violation of its National Pollutant Discharge Elimination System (NPDES) permitted discharge. In developing specific permit levels, the General Manager may impose mass local limitations in addition to or in the place of specific concentration-based local limits. In addition, the General Manager may develop specific discharge limitations for any other toxic pollutants which the General Manager may determine to be of sufficient quantity to cause the POTW interference or pass through thereby endangering the safety of the POTW personnel or the public health; causing a POTW permit violation or rendering the POTW sludge unacceptable for economic reuse or reclamation.

C. The General Manager may develop Best Management Practices (BMPs), by Article or in individual wastewater discharge permits, to implement Local Limits and the requirements of Section 28-27-1. (*Ord. No. 2011-9 § 1, 02-15-11*)

Sec. 28-27-5 City's Right of Revision.

The City reserves the right to establish, by Article or in individual wastewater discharge permits, more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this Article. (*Ord. No. 2011-9 § 1, 02-15-11*)

Sec. 28-27-6 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 General Manager 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. *(Ord. No. 2011-9 § 1, 02-15-11)*

SECTION 28-28-PRETREATMENT OF WASTEWATER

28-28-1 Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this Article and shall achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Section 28-27-1 of this Article within the time limitations specified by EPA, the State, or the General Manager, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the General Manager for review, and shall be acceptable to the General Manager 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 Article. *(Ord. No. 2011-9 § 1, 02-15-11)*

Sec. 28-28-2 Additional Pretreatment Measures.

A. Whenever deemed necessary, the General Manager 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 Article.

B. The General Manager 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. An individual 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 General Manager or the City's Code Enforcement Division, 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 a type and capacity approved by the General Manager or City's Code Enforcement Division and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired 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. *(Ord. No. 2011-9 § 1, 02-15-11)*

Sec. 28-28-3

Accidental Discharge/Slug Discharge Control Plans

The General Manager shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The General Manager may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, the General Manager may develop such a plan for any User. An accidental discharge/slug discharge 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 General Manager of any accidental or Slug Discharge, as required by Section 28-31-6 of this Article; 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. (*Ord. No. 2011-9 § 1, 02-15-11*)

28-28-4

Hauled Wastewater

- A. Septic tank waste may be introduced into the POTW only at locations designated by the General Manager, and at such times as are established by the General Manager. Such waste shall not violate Section 28-27 of this Article or any other requirements established by the City. The General Manager may require septic tank waste haulers to obtain individual wastewater discharge permits.
- B. The General Manager may require haulers of industrial waste to obtain individual wastewater discharge permits. The General Manager may require generators of hauled industrial waste to obtain individual wastewater discharge permits. The General Manager also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this Article.
- C. Industrial waste haulers may discharge loads only at locations designated by the General Manager. No load may be discharged without prior consent of the General Manager. The General Manager may collect samples of each hauled load to ensure compliance with applicable Standards. The General Manager may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

D. All waste haulers must provide a Waste Manifest form for every load. This form shall include, at a minimum, the name and address of the waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. *(Ord. No. 2011-9 § 1, 02-15-11)*

SECTION 28-29- INDIVIDUAL WASTEWATER DISCHARGE PERMITS.

Sec. 28-29-1 Wastewater Analysis.

When requested by the General Manager, a User must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The General Manager is authorized to prepare a form for this purpose and may periodically require Users to update this information. *(Ord. No. 2011-9 § 1, 02-15-11)*

Sec 28-29-2 Individual Wastewater Discharge Permit Requirement

A. No Significant Industrial User shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit from the General Manager, except that a Significant Industrial User that has filed a timely application pursuant to Section 28-29-3 of this Article may continue to discharge for the time period specified therein.

B. The General Manager may require other Users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this Article.

C. Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this Article and subjects the wastewater discharge permittee to the sanctions set out in Sections 28-35 through 28-37 of this Article. Obtaining an individual 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. *(Ord. No. 2011-9 § 1, 02-15-11)*

Sec. 28-29-3 Individual Wastewater Discharge Permitting: Existing Connections.

Any User required to obtain an individual wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this Article and who wishes to continue such discharges in the future, shall, within sixty (60) days after said date, or, within sixty (60) days of the expiration date of their current discharge permit, apply to the General Manager for an individual wastewater discharge permit in accordance with Section 28-29-5 of this Article, and shall not cause or allow discharges to the POTW to continue after sixty (60) days of the effective date of this Article except in accordance with an individual wastewater discharge permit issued by the General Manager. *(Ord. No. 2011-9 § 1, 02-15-11)*

Sec. 28-29-4 Individual Wastewater Discharge Permitting: New Connections.

Any User required to obtain an individual 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 individual wastewater discharge permit, in accordance with Section 28-29-5 of this Article, must be filed at least sixty (60) days prior to the date upon which any discharge will begin or recommence. (*Ord. No. 2011-9 § 1, 02-15-11*)

Sec. 28-29-5 Individual Wastewater Discharge Permit Application Contents.

A. All Users required to obtain an individual wastewater discharge permit must submit a permit application. The General Manager may require Users to submit all or some of the following information as part of a permit application:

(1) Identifying Information.

a. The name and address of the facility, including the name of the operator and owner.

b. Contact information, description of activities, facilities, and plant production processes on the premises;

(2) Environmental Permits. A list of any environmental control permits held by or for the facility.

(3) Description of Operations.

a. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and 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.

b. Types of wastes generated, and 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. Type and amount of raw materials processed (average and maximum per day);

e. 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;

(4) Time and duration of discharges;

(5) The location for monitoring all wastes covered by the permit;

(6) 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 Section 28-27-2C (40 CFR 403.6(e)).

(7) Measurement of Pollutants.

a. The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.

b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the General Manager, of regulated pollutants in the discharge from each regulated process.

c. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.

d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 28-31-10 of this Article. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the General Manager or the applicable Standards to determine compliance with the Standard.

e. Sampling must be performed in accordance with procedures set out in Section 28-31-11 of this Article.

(8) Any other information as may be deemed necessary by the General Manager to evaluate the permit application.

B. Incomplete or inaccurate applications will not be processed and will be returned to the User for revision. (*Ord. No. 2011-9 § 1, 02-15-11*)

Sec. 28-29-6 Application Signatories and Certifications.

A. All wastewater discharge permit applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in Section 28-31-14 A.

B. If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the General Manager prior to or together with any reports to be signed by an Authorized Representative. *(Ord. No. 2011-9 § 1, 02-15-11)*

Sec. 28-29-7 Individual Wastewater Discharge Permit Decisions.

The General Manager will evaluate the data furnished by the User and may require additional information. Within sixty (60) days of receipt of a complete permit application, the General Manager will determine whether to issue an individual wastewater discharge permit. The General Manager may deny any application for an individual wastewater discharge permit. *(Ord. No. 2011-9 § 1, 02-15-11)*

Sec. 28-30 -INDIVIDUAL WASTEWATER DISCHARGE PERMIT ISSUANCE.

Sec. 28-30-1 Individual Wastewater Discharge Permit Duration.

An individual wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the General Manager. Each individual wastewater discharge permit will indicate a specific date upon which it will expire. *(Ord. No. 2011-9 § 1, 02-15-11)*

Sec. 28-30-2 Individual Wastewater Discharge Permit Contents.

An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the General Manager 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. Individual wastewater discharge permits must contain:

- (1) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;

(2) A statement that the wastewater discharge permit is nontransferable without prior notification to the City in accordance with Section 28-30-5 of this Article, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(3) Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards;

(4) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.

(5) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the Discharge in accordance with Section 28-31-4 B.

(6) 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.

(7) Requirements to control Slug Discharge, if determined by the General Manager to be necessary.

(8) Any grant of the monitoring waiver by the General Manager (under Section 28-31- 4 B) must be included as a condition in the User's permit.

B. Individual 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 to reduce the amount of pollutants discharged to the POTW;
- (5) The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;
- (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
- (7) A statement that compliance with the individual 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 individual wastewater discharge permit; and
- (8) Other conditions as deemed appropriate by the General Manager to ensure compliance with this Article, and State and Federal laws, rules, and regulations.
(Ord. No. 2011-9 § 1, 02-15-11)

Sec. 28-30-3 Permit Modification.

A. The General Manager may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (1) To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements;
- (2) To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;
- (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (4) Information indicating that the permitted discharge poses a threat to the City's POTW, City personnel, or the receiving waters;
- (5) Violation of any terms or conditions of the individual wastewater discharge permit;
- (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(7) Revision of or a grant of variance from categorical Pretreatment Standards pursuant to 40 CFR 403.13;

(8) To correct typographical or other errors in the individual wastewater discharge permit; or

(9) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section 28-30-4. (*Ord. No. 2011-9 § 1, 02-15-11*)

Sec. 28-30-4 Individual Wastewater Discharge Permit Transfer.

Individual wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least sixty (60) days advance notice to the General Manager and the General Manager approves the individual wastewater discharge permit transfer. The notice to the General Manager must 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 individual wastewater discharge permit.

Failure to provide advance notice of a transfer renders the individual wastewater discharge permit void as of the date of facility transfer. (*Ord. No. 2011-9 § 1, 02-15-11*)

Sec. 28-30-5 Individual Wastewater Discharge Permit Revocation.

The General Manager may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- A. Failure to notify the General Manager of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to the General Manager of changed conditions pursuant to Section 28-31-5 of this Article;
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- D. Falsifying self monitoring reports and certification statements;

- E. Tampering with monitoring equipment;
- F. Refusing to allow the General Manager 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 Article.

Individual wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits issued to a User are void upon the issuance of a new individual wastewater discharge permit to that User. *(Ord. No. 2011-9 § 1, 02-15-11)*

Sec. 28-30-6 Individual Wastewater Discharge Permit Reissuance.

A User with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 28-29-5 of this Article, a minimum of sixty (60) days prior to the expiration of the User's existing individual wastewater discharge permit.. *(Ord. No. 2011-9 § 1, 02-15-11)*

Sec. 28-30-7 Regulation of Waste Received from Other Jurisdictions.

- A. If another municipality, or User located within another municipality, contributes wastewater to the POTW, the General Manager shall enter into an intermunicipal agreement with the contributing municipality.
- B. Prior to entering into an agreement required by paragraph A, above, the General Manager 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 General Manager 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 Article which is at least as stringent as this Article and Local Limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in Section 28-27-4 of this Article. The requirement shall specify that such Article and limits must be revised as necessary to reflect changes made to the City's Article 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 individual 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 General Manager; and which of these activities will be conducted jointly by the contributing municipality and the General Manager;
- (4) A requirement for the contributing municipality to provide the General Manager 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 General Manager has 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 General Manager; and

(8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement. (*Ord. No. 2011-9 § 1, 02-15-11*)

SECTION 28-31-REPORTING REQUIREMENTS

28-31-1 Baseline Monitoring Reports

Users that become subject to new or revised categorical Pretreatment Standards are required to comply with the following reporting requirements even if they have been designated as Non-Significant Categorical Industrial Users.

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 Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the General Manager 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 Industrial Users subsequent to the promulgation of an applicable categorical Standard, shall submit to the General Manager 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) All information required in Section 28-29-5A (1) (a), Section 28-29-5A (2), Section 28-29-5A (3) (a), and Section 28-29-5A (6). See 40 CFR 403.12(b)(1)-(7).

(2) Measurement of pollutants.

a. The User shall provide the information required in Section 28-29-5 A (7) (a) through (d).

b. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.

c. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR

403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;

d. Sampling and analysis shall be performed in accordance with Section 28-31-10;

e. The General Manager may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

f. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.

(3) Compliance Certification. A statement, reviewed by the User's Authorized Representative as defined in Section 28-26-4 C 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.

(4) 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 must be provided. 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 28-31-2 of this Article.

(5) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 28-31-14 A of this Article and signed by an Authorized Representative as defined in Section 28-26-4C. (*Ord. No. 2011-9 § 1,2-15-11*)

Sec. 28-31-2. Compliance Schedule Progress Reports.

The following conditions shall apply to the compliance schedule required by Section 28-31-1(B)(4) of this Article:

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 referred to above shall exceed nine (9) months;

C. The User shall submit a progress report to the General Manager 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 General Manager. (*Ord. No. 2011-9 § 1,2-15-11*)

Sec. 28-31-3. 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 General Manager a report containing the information described in Section 28-29-5A(6) and (7) and 28-31-1(B)(2) of this Article. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in Section 28-27-2 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 28-31-14 A of this Article. All sampling will be done in conformance with Section 28-31-11. (*Ord. No. 2011-9 § 1,2-15-11*)

Sec. 28-31-4. Periodic Compliance Reports.

All SIUs are required to submit periodic compliance reports even if they have been designated a Non-Significant Categorical Industrial User under the provisions of Section 28-31-4 C.

A. Except as specified in Section 28-31-4.C, all Significant Industrial Users must, at a frequency determined by the General Manager submit no less than twice per year reports indicating the nature, 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 General Manager or the Pretreatment Standard necessary to determine the compliance status of the User.

B. All periodic compliance reports must be signed and certified in accordance with Section 28-31-14 A of this Article.

C. 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.

D. If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the General Manager, using the procedures prescribed in Section 28-31-11 of this Article, the results of this monitoring shall be included in the report. See 40 CFR 403.12(g)(6).
(Ord. No. 2011-9 § 1,2-15-11)

Sec. 28-31-5. Reports of Changed Conditions.

Each User must notify the General Manager of any significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

A. The General Manager 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 28-29-5 of this Article.

B. The General Manager may issue an individual wastewater discharge permit under Section 28-30-7 of this Article or modify an existing wastewater discharge permit under Section 28-30-4 of this Article in response to changed conditions or anticipated changed conditions. (Ord. No. 2011-9 § 1,2-15-11)

Sec. 28-31-6. 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, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the General Manager 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. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

C. Significant Industrial Users are required to notify the General Manager immediately of any changes at its facility affecting the potential for a Slug Discharge. (*Ord. No. 678, §§ 1-5.5, 11-13-84; Ord. No. 701, §§ 6.1 - 6.4, 10-14-86; Ord. No. 96-15, 5-3-96; Ord. No. 87-15, 10-13-87, Ord. No. 2011-9 § 1, 2-15-11*)

28-31-7 Reports from Unpermitted Users

All Users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the General Manager as the General Manager may require. (*Ord. No 2011-9 § 1, 2-15-11*)

28-31-8 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a User indicates a violation, the User must notify the General Manager 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 General Manager within thirty (30) days after becoming aware of the violation. Resampling by the Industrial User is not required if the City or the User performs sampling at the User's facility at least once a month, or if the City performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the City receives the results of this sampling, or if the City has performed the sampling and analysis in lieu of the Industrial User. (*Ord. No 2011-9 § 1, 2-15-11*)

28-31-9 *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 (undiluted mass) 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 sixty (60) 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 28-31-5 of this Article. 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 28-31-1, 28-31-3, and 28-31-4 of this Article.

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 (undiluted mass) 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 (undiluted mass) 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 General Manager, 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 Article, a permit issued thereunder, or any applicable Federal or State law. (*Ord. No 2011-9 § 1, 2-15-11*)

28-31-10 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 and amendments thereto, 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, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the General Manager or other parties approved by EPA. (*Ord. No 2011-9 § 1, 2-15-11*)

28-31-11 Sample Collection

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

A. Except as indicated in Section 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 General Manager. Where time proportional composite sampling or grab sampling is authorized by the City, 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 City, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

B. Samples for oil and grease, temperature, pH, cyanide, total 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 Section 28-31-1 and 28-31-3 [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 General Manager may authorize a lower minimum. For the reports required by paragraphs Section 28-31-4 (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. (*Ord. No 2011-9 § 1, 2-15-11*)

28-31-12 Date of Receipt of Reports

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. (*Ord. No 2011-9 § 1, 2-15-11*)

28-31-13 Recordkeeping

Users subject to the reporting requirements of this Article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Article, 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 28-27-4 C. 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 General Manager. (*Ord. No 2011-9 § 1, 2-15-11*)

28-31-14 Certification Statements

Certification of Permit Applications and User Reports-The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 28-29-7; Users submitting baseline monitoring reports under Section 28-31-1 B (5); Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section 28-31-2; Users submitting periodic compliance reports required by Section 28-31-4 A-D. The following certification statement must be signed by an Authorized Representative as defined in Section 28-26-4

C:

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. (*Ord. No 2011-9 § 1, 2-15-11*)

SECTION 28-32-COMPLIANCE MONITORING

Sec. 28-32-1 Right of Entry: Inspection and Sampling

The General Manager shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this Article and any individual wastewater discharge permit or order issued hereunder. Users shall allow the General Manager 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 General Manager shall be permitted to enter without delay for the purposes of performing specific responsibilities.

B. The General Manager 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 General Manager 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 General Manager and shall not be replaced. The costs of clearing such access shall be borne by the User.

E. Unreasonable delays in allowing the General Manager access to the User's premises shall be a violation of this Article. *(Ord. No 2011-9 § 1, 2-15-11)*

Sec. 28-32-2 Search Warrants

If the General Manager 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 Article, 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 Article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the General Manager may seek issuance of a search warrant from the Searcy Municipal Court. *(Ord. No 2011-9 § 1, 2-15-11)*

Sec. 28-33-1 CONFIDENTIAL INFORMATION.

Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, and monitoring programs, and from the General Manager'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 General Manager, 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 at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

(Ord. No 2011-9 § 1, 2-15-11)

**Sec. 28-34-1 PUBLICATION OF USERS IN SIGNIFICANT
NONCOMPLIANCE.**

The General Manager shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates paragraphs (C), (D) or (H) of this Section) and 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 as defined in Section 28-27;
- 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 28-27 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 28-26-2 for all other pollutants except pH);
- C. Any other violation of a Pretreatment Standard or Requirement as defined by Section 28-27 (Daily Maximum, long term average, Instantaneous Limit, or narrative standard) that the General Manager 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 a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the General Manager'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 an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within forty five (45) 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 may include a violation of Best Management Practices, which the General Manager determines will adversely affect the operation or implementation of the local pretreatment program.

SECTION 28-35-ADMINISTRATIVE ENFORCEMENT REMEDIES

28-35-1 Notification of Violation

When the General Manager finds that a User has violated, or continues to violate, any provision of this Article, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the General Manager may serve upon that User a written Notice of Violation. Within thirty (30) days of the receipt of such 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 General Manager. Submission of such a 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 General Manager to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

28-35-2 Consent Orders

The General Manager may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall 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 28-35-4 and 28-35-5 of this Article and shall be judicially enforceable.

28-35-3 Show Cause Hearing

The General Manager may order a User which has violated, or continues to violate, any provision of this Article, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the General Manager 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 thirty (30) days prior to the hearing. Such notice may be

served on any Authorized Representative of the User as defined in Section 28-26-4 C and required by Section 28-29-7 A. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

28-35-4 Compliance Orders

When the General Manager finds that a User has violated, or continues to violate, any provision of this Article, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the General Manager 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.

28-35-5 Cease and Desist Orders

When the General Manager finds that a User has violated, or continues to violate, any provision of this Article, an individual 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 General Manager 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.

28-35-6 Administrative Fines

- A. When the General Manager finds that a User has violated, or continues to violate, any provision of this Article, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the General Manager may fine such User in an amount not to exceed \$500.00. 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. Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue

thereafter at a rate of ten percent (10%) per month. A lien against the User's property shall be sought for unpaid charges, fines, and penalties.

C. Users desiring to dispute such fines must file a written request for the General Manager 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 General Manager 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 General Manager 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.

28-35-7 Emergency Suspensions

The General Manager 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 General Manager 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 General Manager 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 General Manager may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the General Manager that the period of endangerment has passed, unless the termination proceedings in Section 28-35-8 of this Article 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 General Manager prior to the date of any show cause or termination hearing under Sections 28-35-3 or 28-35-8 of this Article.

Nothing in this Section shall be interpreted as requiring a hearing prior to any Emergency Suspension under this Section.

28-35-8 Termination of Discharge

In addition to the provisions in Section 28-30-6 of this Article, any User who violates the following conditions is subject to discharge termination:

- A. Violation of individual 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 28-27 of this Article.

Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 28-35-3 of this Article why the proposed action should not be taken. Exercise of this option by the General Manager shall not be a bar to, or a prerequisite for, taking any other action against the User. (*Ord. No 2011-9 § 1, 2-15-11*)

Sec. 28-36. JUDICIAL ENFORCEMENT REMEDIES.

28-36-1 Injunctive Relief

When the General Manager finds that a User has violated, or continues to violate, any provision of this Article, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the General Manager may petition the White County Circuit Court for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, issued hereunder, order, or other requirement imposed by this Article on activities of the User. The General Manager may also seek such other action as is appropriate for legal or equitable relief, including a requirement for the User to conduct environmental remediation. Any action for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

28-36-2 Civil Penalties

A. A User who has violated, or continues to violate, any provision of this Article, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the SWSS in the form of a civil penalty pursuant to A. C. A. §

14-55-606 (Repl. 1998) as amended in the amount of \$500.00 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 General Manager may also 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 White County District Court pursuant to the aforesaid code section 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. The filing of a court action to obtain civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

28-36-3 Criminal Prosecution

A. It shall be unlawful for any User to willfully or negligently violate any provision of this Article, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement. There is established under the Searcy Code of Articles as a criminal act of such willful or negligent violation which may be prosecuted shall, upon conviction, be guilty of a violation under the provisions of A. C. A. § 14-55-606 (Repl. 1998) as amended which is punishable by a fine up to but not more than of \$500.00 per violation, per day, or imprisonment for not more than six (6) months, or both.

B. It is further established under the Searcy Code of Articles as a criminal act pursuant to A. C. A. § 5-38-205 (Repl. 2006) as amended for any User to willfully or negligently introduce any substance into the POTW which causes personal injury or property damage or the impairment of the SWSS sewer system which is defined under said code section as vital public facility and in such event and upon conviction, shall be guilty of a Class A Misdemeanor and be subject to a penalty of at least \$1,000, per violation or be subject to imprisonment for not more than one year, or both, per violation. This criminal fine and penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

C. Additionally it is established under the Searcy Code of Ordinances as a prohibited conduct pursuant to A. C. A. § 14-55-501 (Repl. 1998) as amended for any User who knowingly make any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant

to this Article, individual wastewater discharge permit, or order issued hereunder. Additionally it shall be a criminal act under this Article for any User to falsify, tamper with, or knowingly render inaccurate any monitoring device or method required under this Article. Upon a conviction for any such act the User shall be punished by a fine of not more than \$500 per violation, per day, or imprisonment for not more than six (6) months, or both.

D. In the event of a subsequent conviction of the same User for the same or similar act the fine for such subsequent conviction shall be \$1,000 per violation, per day, or imprisonment for not more than one year, or both.

28-36-4 Remedies Nonexclusive

The remedies provided for in this Article are not exclusive. The General Manager 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 General Manager may take other action against any User when the circumstances warrant. Further, the General Manager is empowered to take more than one enforcement action against any noncompliant User.

SECTION 28-37-SUPPLEMENTAL ENFORCEMENT ACTION

28-37-1 Payment of Outstanding Fees and Penalties

The General Manager may decline to issue or reissue an individual wastewater discharge permit to any User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this Article, a previous individual wastewater discharge permit, or order issued hereunder.

28-37-2 Water Supply Severance

Whenever a User has violated or continues to violate any provision of this Article, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, water service to the User may be severed. Service will recommence, at the User's expense, only after the User has satisfactorily demonstrated its ability to comply.

SECTION 28-38-AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

28-38-1 Upset

A. For the purposes 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 User can identify the cause(s) of the upset;
- (2) The facility was at the time being operated in a prudent and workman like manner and in compliance with applicable operation and maintenance procedures; and
- (3) The User has submitted the following information to the General Manager 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 shall 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.

28-38-2 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 28-27-1(A) of this Article or the specific prohibitions in Sections 28-27-1(B)(1) through (17) of this Article 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.

28-38-3 Bypass

A. For the purposes of this Section,

(1) Bypass means the intentional diversion of wastestreams 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 reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

B. A User may allow any bypass to occur which does not cause 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. Bypass Notifications

(1) If a User knows in advance of the need for a bypass, it shall submit prior notice to the General Manager, at least ten (10) days before the date of the bypass, if possible.

(2) A User shall submit oral notice to the General Manager 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 General Manager may waive the written report on a case by case basis if the oral report has been received within twenty four (24) hours.

D. Bypass

(1) Bypass is prohibited, and the General Manager 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 General Manager may approve an anticipated bypass, after considering its adverse effects, if the General Manager determines that it will meet the three conditions listed in paragraph (D)(1) of this Section. (*Ord. No. 97-20, §§ 1-7, 6-13-97, Ord. No. 2011-9 § 1, 2-15-11*)

SECTION 28-39----MISCELLANEOUS PROVISIONS

28-39-1 Pretreatment Charges and Fees

The City may adopt reasonable fees for reimbursement of costs of setting up and operating the City's Pretreatment Program, which may include:

A. Fees for wastewater discharge permit applications including the cost of processing such applications;

- B. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a User's discharge, and reviewing monitoring reports and certification statements submitted by Users;
- C. Fees for reviewing and responding to accidental discharge procedures and construction;
- D. Fees for filing appeals;
- E. Fees to recover administrative and legal costs (not included in Section 28-39-1 B) associated with the enforcement activity taken by the General Manager to address IU noncompliance; and
- F. Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this Article and are separate from all other fees, fines, and penalties chargeable by the City."

Sec. 28-28-4	<u>Hauled Wastewater.</u>	28-34
SECTION 28-29- Individual	<u>Wastewater Discharge Permits.</u>	28-35
Sec. 28-29-1	<u>Wastewater Analysis.</u>	28-35
Sec. 28-29-2	<u>Individual Wastewater Discharge Permit Requirement.</u>	28-35
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