

ORDINANCE NO. 17,965

AN ORDINANCE REGULATING THE USE OF PUBLIC AND PRIVATE SEWERS, PRIVATE SEWAGE DISPOSAL, THE INSTALLATION, CONSTRUCTION, MAINTENANCE, AND CONNECTION OF BUILDING SEWERS; THE DISCHARGE OF WATERS AND WASTES INTO THE PUBLIC SEWER SYSTEM; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; REPEALING ALL ORDINANCES AND PROVISIONS THEREOF IN CONFLICT THEREWITH INCLUDING ARTICLES I, II, III, IV, V, X, XI, AND XII OF ORDINANCE NO. 15,344, PASSED ON SEPTEMBER 1, 1987; AND FOR OTHER PURPOSES, ALL PERTAINING TO THE SEWER LINES AND SYSTEM WITHIN THE JURISDICTION OF THE CITY OF LITTLE ROCK, ARKANSAS, AND DECLARING AN EMERGENCY.

WHEREAS, Ordinance No. 15,344, passed on September 1, 1987, currently regulates the use of public and private sewers and specifically, Articles I, II, III, IV, V, X, XI, and XII of said Ordinance contain general provisions regarding the use, disposal, connection, protection, inspections, and penalties in connection with the use of public sewers and these provisions should be repealed, and revised and expanded provisions in a new Ordinance should be adopted to enable the LRWU to effectively operate the sewer system of the City of Little Rock; and,

WHEREAS, the provisions as hereinafter set forth contain the revisions and additions necessary to enable the LRWU to more effectively and efficiently operate the sewer system in the City of Little Rock, by inclusion in this Ordinance the following provisions, the titles to which are hereinafter set forth in the following table of contents for convenience of reference only, and not to define or limit any of the terms or provisions hereinafter set forth in this Ordinance:

TABLE OF CONTENTS OF THIS ORDINANCE

SECTION 1	GENERAL PROVISIONS	3
	1.1 Title, Purpose and Policy	
	1.2 Definitions	
SECTION 2	USE OF PUBLIC SEWERS REQUIRED	5
	2.1 Unsanitary Conditions	
	2.2 Stormwater Discharge	
	2.3 Discharge to Natural Outlets	
	2.4 Septic Tanks, Privys, Cesspools	
	2.5 Connection to Public Sewer Required	
	2.6 Dischargers Outside City	
SECTION 3	PRIVATE SEWAGE DISPOSAL	7
	3.1 Private Sewage Disposal Systems Allowed	
	3.2 Permits Required	
	3.3 Compliance with Regulations	
	3.4 Connection to Public Sewer Required	
	3.5 Owner Responsibilities	
	3.6 Additional Requirements Govern	
SECTION 4	BUILDING SEWERS AND CONNECTIONS	8
	4.1 Authorizations Required	
	4.2 Building Sewer Permits/Fees Required	
	4.3 Costs, Expenses, and Indemnification	
	4.4 Separate Building Sewers Required	
	4.5 Use of Old Building Sewers	
	4.6 Construction Requirements/Specifications	
	4.7 Building Sewer Elevations/Lift Stations	

	4.8 Prohibited Connections	
	4.9 Conformance to Rules and Regulations	
	4.10 Notification-Inspection and Connection	
	4.11 Protection of the Public	
	4.12 Restoration of Public Property	
	4.13 Operation and Maintenance Requirements	
SECTION 5	PROTECTION FROM DAMAGE	10
	5.1 Damage, Destruction, and Tampering	
	5.2 Unauthorized Covering	
	5.3 Removal of Cover	
	5.4 Applicable Penalties	
SECTION 6	DISCONNECTING SEWERS.....	11
	6.1 Disconnection and Sealing Required	
	6.2 Application and Fee Required	
	6.3 Notification Requirements	
SECTION 7	POWER AND AUTHORITY OF INSPECTORS.....	11
	7.1 Right of Entry	
	7.2 Adoption of Rules and Regulations Pertaining to Sewers	
SECTION 8	ADMINISTRATIVE ENFORCEMENT REMEDIES	13
	8.1 Enforcement Procedure	
	8.2 Show Cause Hearing	
	8.3 Emergency Suspension of Service	
SECTION 9	JUDICIAL ENFORCEMENT REMEDIES	15
	9.1 Injunctive Relief	
	9.2 Civil Penalties	
	9.3 Criminal Prosecution	
	9.4 Remedies Nonexclusive	
	9.5 Initiation of Criminal or Civil Action	
SECTION 10	SUPPLEMENTAL ENFORCEMENT ACTIONS	17
	10.1 Performance Bonds	
	10.2 Liability Insurance	
	10.3 Public Nuisance	
SECTION 11	SEVERABILITY	18
	11.1 Repeal of Prior Ordinances	
SECTION 12	AUTHORITY OF LITTLE ROCK SANITARY SEWER COMMITTEE, EFFECTIVE DATE, AND DECLARING AN EMERGENCY	19

WHEREAS, it is essential that the Little Rock Sanitary Sewer Committee should have the authority to perform all acts as provided in the ordinance in order to effectively regulate the use and operation of the public sewer system of the City of Little Rock and the provisions of this ordinance are necessary for the immediate protection of the public health, safety and welfare;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CITY:

SECTION 1 - GENERAL PROVISIONS

1.1 Title, Purpose and Policy

This Ordinance shall be known as the "General Sewer Use Ordinance" and sets forth uniform general requirements regulating the use of the public sewers for the City of Little Rock, Arkansas. The objectives of this Ordinance are:

- A. To regulate the general use of both public and private sewers within the jurisdiction of the City of Little Rock, Arkansas;
- B. To regulate private sewage disposal within the jurisdiction of the City of Little Rock, Arkansas;
- C. To regulate the installation, construction, maintenance, connection, and protection of building sewers within the jurisdiction of the City of Little Rock, Arkansas;
- D. To regulate the disconnection and sealing of building sewers within the jurisdiction of the City of Little Rock, Arkansas;
- E. To repeal all existing Ordinances in conflict therewith.

1.2 Definitions

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

- A. And/Or shall mean one item or the other or a combination of both or all.
- B. Building Drain shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from all drains which carry waste or water-born waste inside the walls of a building and conveys it to the building sewer, beginning five (5) feet outside the inner face of the building.
- C. Building Sewer shall mean the extension from the building drain to the public sewer or other place of disposal.
- D. Manager shall mean the manager of Little Rock Wastewater Utility, or his authorized deputy, agent, or representative.
- E. Natural Outlet shall mean any outlet, including storm sewers and combined sewer overflows, into a water course, ditch, lake, or other body of surface or ground water.
- F. Objectionable Waste shall mean any wastes that can harm either the sewers, sewer treatment processes or equipment, have an adverse effect on the receiving stream or otherwise endanger life, health, or property, or constitutes a nuisance.
- G. Person shall mean any individual, firm, company, association, society, corporation, or group.
- H. POTW shall mean Publicly Owned Treatment Works
- I. Private Sewage Disposal System shall mean that facility owned, operated, and maintained by any person for the purpose of collecting and disposing of sewage within the property of said person.
- J. Public Sewer shall mean a common sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
- K. Sanitary Sewer shall mean a sewer in which sewage is carried, and to which storm, surface, and ground water are not intentionally admitted.
- L. Sewage shall mean a combination of the water-carried wastes from residences, business buildings, institutions, commercial establishments, and industries.
- M. Sewer shall mean a pipe or conduit for carrying sewage.
- N. Sewer Committee shall mean the Little Rock Sanitary Sewer Committee of the City of Little Rock Wastewater Utility.
- O. Sewer System shall mean the City of Little Rock Wastewater Utility as operated by the Sewer Committee of the City of Little Rock, Arkansas.
- P. Shall is mandatory; May is permissive.
- Q. Storm Drain shall mean a drain or sewer for conveying water, ground water, subsurface water, or unpolluted water from any source.
- R. Utility shall mean the Little Rock Sanitary Sewer Committee.

- S. User shall mean a source of indirect discharge
- T. Wastewater shall mean the spent water of a community, including the combination of the liquid and water carried wastes from residences, commercial establishments, industrial plants, and institutions, together with any ground water, surface water, and storm water that may be present.
- U. Water Course shall mean a channel in which a flow of water occurs, either continuously or intermittently.

SECTION 2 - USE OF PUBLIC SEWERS REQUIRED

2.1 Unsanitary Conditions

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 Little Rock, Arkansas, or in any area under the jurisdiction of said City, any human or animal excrement, or other objectionable wastes.

2.2 Stormwater Discharge

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, non-contact cooling water or other such waters into any sanitary sewer.

2.3 Discharge to Natural Outlets

It shall be unlawful to discharge to any natural outlet within the City of Little Rock, Arkansas, or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been provided as required by law.

2.4 Septic Tanks, Privys, Cesspools

Except as herein provided under Section 3 below, it shall be unlawful for any person to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended to be used for the disposal of sewage.

2.5 Connection to Public Sanitary Sewer Required

The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City of Little Rock 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 sewer of the City, is hereby required, at his expense, to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Ordinance, within thirty (30) days after date of official notice to do so, provided that said property is within three hundred (300) feet of any accessible public sanitary sewer.

2.6 Dischargers Outside City

All dischargers to the City of Little Rock POTW, who are outside the jurisdiction and are not part of another incorporated city, shall be required to agree by written contract to abide by the conditions set forth in this ordinance, subsequent revisions and amendments to this ordinance, and any rules and/or regulations promulgated by the Sewer Committee of the City of Little Rock in accordance with this ordinance. All incorporated cities which discharge to the City of Little Rock POTW shall agree by written

contract to adopt an ordinance which meets the requirements of 40CFR403, General Pretreatment Regulations, and will be at least as stringent as the conditions set forth in this ordinance. This agreement must also contain a provision that allows for the adoption of any and all rules and/or regulations promulgated by the provisions of the Sewer Committee of the City of Little Rock in accordance with this ordinance and shall delegate to the City of Little Rock the powers to enforce the provisions of all laws, rules and/or regulations adopted in accordance with this section.

SECTION 3 - PRIVATE SEWAGE DISPOSAL

3.1 Private Sewage Disposal Systems Allowed

Where a public sanitary sewer is not available, under the provisions of Section 2.4, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Section.

3.2 Permits Required

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit from the office of the Arkansas Department of Health and/or the Arkansas Department of Environmental Quality. The application for such permit(s) shall be supplemented by such plans, specifications, test results, and other information as deemed necessary by the permitting authority.

3.3 Compliance with Regulations

The type, capacities, locations, and layout of private sewage disposal systems shall comply with all requirements and recommendations of the Arkansas Department of Health and/or the Arkansas Department of Environmental Quality.

3.4 Connection to Public Sewer Required

When a public sewer becomes available, the building sewer shall be connected to said sewer within thirty (30) days after date of official notice to do so, and the private sewage disposal system shall be cleaned of all sludge and solids, and filled with suitable materials.

3.5 Owner Responsibilities

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to Little Rock Wastewater Utility.

3.6 Additional Requirements Govern

No statement contained in this Section shall be construed to supersede any additional requirements that may be imposed by the Arkansas Department of Health or the Arkansas Department of Environmental Quality, and in the event of any conflict between this section and any such additional requirements, the latter shall govern.

SECTION 4 - BUILDING SEWERS AND CONNECTIONS

4.1 Authorizations Required

No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb, a public sewer or appurtenance thereof without first obtaining a written permit from the Manager of Little Rock Wastewater Utility.

4.2 Building Sewer Permits/Fees Required

A building sewer permit shall be required for all residential, commercial, and industrial connections to the sanitary sewer system. The owner or agent shall make application on a special form provided by the Utility. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Manager. A permit and inspection fee for residential, commercial, and industrial building sewer connections shall be paid to Little Rock Wastewater Utility at the time the application is filed. Coincident with application for a permit, a connection fee shall be paid to Little Rock Wastewater Utility. Said fee shall be in proportion to the sewage treatment capacity required by the connected facility in accordance with a schedule adopted by the Sewer Committee of Little Rock Wastewater Utility.

4.3 Costs, Expenses, and Indemnification

All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly be occasioned by the installation of the building sewer.

4.4 Separate Building Sewers Required

A separate and independent building sewer shall be provided for every building except as follows:

- A. Where multiple buildings are constructed in an apartment complex or condominium on a single lot or tract of land which cannot be subsequently subdivided and sold in parcels, the individual buildings may be connected to a collector building sewer provided that only one person is responsible for maintenance of the building sewer.
- B. Temporary buildings, mobile homes, or similar portable structures may be connected to a building sewer installed to serve a previously constructed permanent building provided that both the permanent and temporary buildings are located on the same lot.

4.5 Use of Old Building Sewers

Old building sewers may be used in connection with new buildings only when they are found, upon examination and testing by the Manager, to meet all requirements of this Ordinance and other rules and regulations of Little Rock Wastewater Utility.

4.6 Construction Requirements and Specifications

The size, slope, alignment, and materials of construction of a building sewer and the methods to be used in excavating, placing of pipe, joining, testing, and backfilling the trench, shall all conform to the rules and regulations of Little Rock Wastewater Utility, the building and plumbing codes, or other applicable rules or regulations of the City of Little Rock, Arkansas. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Standard Testing Material (A.S.T.M.) and the Water Environment Federation (W.E.F.) Manual of Practice No. 9 shall apply.

4.7 Building Sewer Elevations/Lift Stations

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 a means approved by the Manager and discharged to the building sewer.

4.8 Prohibited Connections

No person shall make, permit to be made, own, use or be in possession of a connection of roof drains, downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which is directly or indirectly connected to a public sanitary sewer. If such connection is found to exist, the Owner shall be notified and given thirty (30) days to disconnect the prohibited cross connection. If disconnection is not made, sewer service will be discontinued until such repair is made.

4.9 Conformance to Rules and Regulations

The connection of a building sewer into a public sewer shall conform to the rules and regulations of Little Rock Wastewater Utility, the building and plumbing codes or other applicable rules of the City of Little Rock, Arkansas, or the procedures set forth in appropriate specifications of the A.S.T.M. and W.E.F. Manual of Practice No. 9. All such connections shall be made gas tight and water tight. Any deviation from the prescribed procedures and materials must be approved by the Manager before installation.

4.10 Notification-Inspection and Connection

The applicant for the building sewer permit shall notify the Manager of Little Rock Wastewater Utility when the building sewer is ready for inspection and connection to the public sewer. All portions of the building sewer from the foundation to the connection to the public sewer shall be inspected and approved by the Manager before backfilling.

4.11 Protection of the Public

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard.

4.12 Restoration of Public Property

Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City of Little Rock Public Works Department.

4.13 Operation and Maintenance Requirements

The owner of any building or buildings which is (are) connected to the public sanitary sewer shall be required to operate and properly maintain the building drains and building sewer in accordance with all provisions of this Article at no expense to Little Rock Wastewater Utility.

SECTION 5 - PROTECTION FROM DAMAGE

5.1 Damage, Destruction, and Tampering

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

5.2 Unauthorized Covering

No unauthorized person shall cover any manhole on a public sewer with earth or paving, or otherwise render it inaccessible.

5.3 Removal of Cover

No unauthorized person shall remove the earth cover from a public sewer so that less than two (2) feet of earth cover remains over the pipe bells. Approval to remove subsequent cover shall require written consent from the Manager of the Little Rock Wastewater Utility.

5.4 Applicable Penalties

Violation of any provision of this Section is a Class C misdemeanor.

SECTION 6 - DISCONNECTING SEWERS

6.1 Disconnection and Sealing Required

Before any dwelling or other building being served by the public sewer is moved or demolished, the building sewer serving said building shall be disconnected from the public sewer at the property line and the remaining building sewer sealed to prevent the entrance of stormwater, groundwater, and debris into the public sewer. The Manager shall inspect all disconnect and seals.

6.2 Application and Fee Required

Prior to the demolition or moving of any building served by a public sewer, application shall be made to the office of Little Rock Wastewater Utility for disconnect and seal of the building sewer by the Utility and the sewer seal fee, as set by the Sewer Committee, shall be paid to the Utility at that time.

6.3 Notification Requirements

At least three (3) days before the building is moved or demolished, but after it is no longer occupied, the party making the application outlined in Section 6.2, above, shall notify the Utility that the building sewer is ready for inspection of disconnection and sealing.

SECTION 7 - POWER AND AUTHORITY OF INSPECTORS

7.1 Right of Entry

The Manager and other duly authorized employees of the Little Rock Wastewater Utility bearing proper credentials and identification shall be permitted to enter all properties connected to the sanitary sewer system for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Ordinance. The Manager or other duly authorized employee of the Little Rock Wastewater Utility bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. Any entry in and subsequent work on any such easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

7.2 Adoption of Rules and Regulations Pertaining to Services

In addition to the provisions of this Ordinance, the Sewer Committee of the City of Little Rock is specifically authorized to make such other reasonable rules and regulations in regard to the construction, use, and operation of sanitary sewers to be connected to, or connecting into, the mains of the Little Rock

Wastewater Utility system. Such rules and regulations so made and adopted at a regular meeting of the Sewer Committee shall become effective as follows:

- (a) A public notice of intent to enact and intention of proposed rules and regulations shall be placed in a daily newspaper in the City of Little Rock, Arkansas, one (1) day for each of two (2) successive weeks with a brief summary of the proposed rules and regulations.
- (b) The proposed rules and regulations shall be available for inspections and reproduction at the office of the Manager of the Wastewater Utility for thirty (30) days following the first publication of the public notice.
- (c) A correct copy of those rules and regulations shall be filed for permanent record with the City Clerk of the City of Little Rock together with any written objections to the proposed rules and regulations at the end of the thirty (30) day public review period.
- (d) Said rules and regulations shall become effective on the filing of said copy for permanent record with the City Clerk.

SECTION 8 - ADMINISTRATIVE ENFORCEMENT REMEDIES

8.1 Enforcement Procedure

Whenever the Manager finds that any person has violated or is violating any provision of this Ordinance, or any prohibition, limitation, or requirement contained herein, he shall serve upon such person a written notice via certified mail or personal service stating the nature of the violation and providing a reasonable time, not to exceed thirty (30) days, for the satisfactory correction thereof.

8.2 Show Cause Hearing

- A. If the violation is not corrected by timely compliance, the Manager shall order any person who violates any provision of this Ordinance or causes or allows an unauthorized discharge to show cause before the Manager why service should not be terminated. A notice shall be served on the offending party, specifying the time and place of a hearing to be held by the Manager regarding the violation, and directing the termination of service. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.
- B. The Manager shall conduct the hearing, take the evidence, and the Manager is further authorized to do any and all of the following:
 - 1. Issue notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in any such hearings and conduct such hearing for the purpose of making a determination of the existence of violations and recommendation to the Sewer Committee for appropriate action.
 - 2. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with the recommendations and/or findings of the Manager to the Sewer Committee for final action by the Sewer Committee subject to any further information which the Sewer Committee may request or any party to the action may desire to submit for further consideration.
 - 3. At any public hearing, testimony taken before the Manager must be under oath and recorded by cassette tape or stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the cost of production.
- C. After the Sewer Committee has reviewed the evidence, and the Manager's recommendation it may issue an order to the party responsible for the discharge or violation directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices, or other related appurtenances shall have been installed or existing treatment facilities, devices, or other related appurtenances are properly operated or the violation is corrected, and such further orders and directives as are necessary and appropriate. Such order shall be subject to review by appeal to the Circuit Court of Pulaski County, Arkansas, in accordance with the law of Arkansas.
- D. A discharge in violation of the provisions of this Ordinance shall be considered a public nuisance. In addition to the procedures outlined in Sections 6 and 7, nothing herein shall be deemed to prevent the Sewer Committee and/or the Utility from seeking appropriate legal and/or equitable relief in the Courts of Arkansas in the event of a violation or discharge in violation of the provisions of this Ordinance.

8.3 Emergency Suspension of Service

The Sewer Committee may for good cause shown, after notice, suspend the receipt of wastewater discharge to the POTW, subject to a hearing within five (5) days, and, thereafter, revoke the Wastewater Discharge Permit of a discharger when it appears to the Sewer Committee that an actual or threatened discharge presents or threatens an imminent and substantial danger to the health or welfare of persons, substantial danger to the environment, interferes with the operation of the POTW, or violates any of the provisions of this Ordinance. Any Discharger notified of the suspension of service and/or discharge permit, shall within a reasonable period of time, as determined by the Sewer Committee or its representative, cease all discharges. In the event of failure of the discharger to comply voluntarily with the suspension order within the time specified, the Sewer Committee shall take all lawful actions necessary to immediately suspend the access of the User to the POTW. The Sewer Committee shall reinstate the service and/or Discharge Permit upon proof by the Discharger of the elimination of the non-complying discharges or conditions creating the threat of imminent or substantial danger as set forth above. The Discharger shall be charged with reimbursing the LRWU all costs incurred in the suspension of service before the service will be reinstated.

SECTION 9 - JUDICIAL ENFORCEMENT REMEDIES

9.1 Injunctive Relief

Whenever a User has violated any provision of this Ordinance or continues to violate any provision of this Ordinance, wastewater discharge permits or orders issued hereunder, the Sewer Committee may commence action for appropriate legal and/or equitable relief in any court of competent jurisdiction for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels compliance, performance of a Sewer Committee order, or other requirement imposed by this Ordinance on activities of the User. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a User.

9.2 Civil Penalties

- A. Any person or other entity found to be violating any provision of this Ordinance or regulations promulgated by the Sewer Committee shall be subject to a fine in an amount of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for any one (1) specified offense or violation of such ordinance, and not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) for each repetition of such offense or violation. If a thing prohibited or rendered unlawful is, in its nature, continuous in respect to time, the fine or penalty for allowing the continuance thereof shall not exceed two hundred and fifty dollars (\$250.00) per day for each continuing offense or violation.
- B. Any person or other entity who knowingly makes any false statements, representations or certification of any record, report, plan, or other document filed or required to be maintained pursuant to this Ordinance, regulations, or laws referred to herein, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Ordinance, regulations or laws referred to herein, shall be subject to a fine in an amount not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for any one (1) specified offense or violation of such ordinance, and not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) for each repetition of such offense or violation. If a thing prohibited or rendered unlawful is, in its nature, continuous in respect to time, the fine or penalty for allowing the continuance thereof, in violation of such ordinance, shall not exceed two hundred and fifty dollars (\$250.00) per day for each offense or violation.
- C. Any person or other entity violating any of the provisions of this Ordinance shall become liable to the Utility for any expense, loss, or damage occasioned the Utility by reason of such violation.

- D. In addition to the civil penalties provided for herein, the Sewer Committee may recover, on behalf of the Utility, from a person or other entity(ies) determined to be in violation of the provisions of this Ordinance any damages suffered, costs, and other expenses of litigation in an action at law or equity which may be permitted by the laws of Arkansas.
- E. The Sewer Committee shall petition a Court of competent jurisdiction to impose, assess and recover all civil penalties, legal fees, and costs together with damages if appropriate. In determining the amount of the penalty, the Sewer Committee in its recommendation for civil penalties, the City Board of Directors and the Court may 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 by the User in allowing the violation, the timing and nature of any corrective actions taken by the User, the compliance history of the User, and any other facts as justice requires.
- F. Filing a suit for civil penalties shall not be a prerequisite for taking any other action against a User.

9.3 Criminal Prosecution

- A. The Sewer Committee may criminally prosecute in a court of competent jurisdiction any User who knowingly or negligently violates any provision of this Ordinance, its Wastewater Discharge Permit or any orders issued hereunder. If so prosecuted the User shall, upon conviction, be guilty of a misdemeanor, and be punished by a fine not to exceed five hundred dollars (\$500.00) per violation or imprisonment for such term as allowed by law.
- B. The Sewer Committee may criminally prosecute in a court of competent jurisdiction any User who knowingly or negligently makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Ordinance or its Wastewater Discharge Permit, or who falsifies, tampers with, or knowingly or negligently renders inaccurate any monitoring or sampling device, wastewater sample or other methods required by this Ordinance. If so prosecuted, the User shall, upon conviction, be guilty of a misdemeanor, and be punished by a fine of not more than five hundred dollars (\$500.00) per violation or by imprisonment for such term as allowed by law.
- C. Each day on which a violation shall occur or continue shall be a separate and distinct offense. In the case of monthly or other long-term average discharge limits, penalties shall accrue for each business or operational day during the period of violation.

9.4 Remedies Nonexclusive

The provisions in Sections 7 through 9 are not exclusive remedies. The Utility reserves the right to take any, all, or any combination of these actions against a noncompliant User. The Utility shall be authorized to take other action against any User when the circumstances warrant. Further, the Utility is empowered to take more than one (1) enforcement action against any noncompliant User. These actions may be taken concurrently.

9.5 Initiation of Criminal or Civil Action

Any criminal or civil action for violation of this Ordinance may be initiated only after a majority vote of the Sewer Committee resolves to pursue such action.

- A. For Users with properties located within the corporate limits of the City of Little Rock, no suit to collect civil or criminal penalties or fines may be initiated until after such time that a resolution authorizing the suit is duly adopted by the Sewer Committee, as the governing body.

- B. For Users with properties located outside the corporate limits of the City of Little Rock, the Board of Directors of the City of Little Rock hereby delegates authority to the Sewer Committee to be the governing body to authorize, by resolution, legal actions to collect civil or criminal penalties or fines.

SECTION 10 - SUPPLEMENTAL ENFORCEMENT ACTION

10.1 Performance Bonds

The Manager may decline to issue a wastewater discharge permit to any User who has failed to comply with the provisions of this Ordinance, any orders, or a previous wastewater discharge permit issued hereunder, unless such User first files a satisfactory bond, payable to the Little Rock Sanitary Sewer Committee or the Utility, in a sum not to exceed a value determined by the Manager to be necessary to achieve compliance.

10.2 Liability Insurance

The Manager may decline to issue a wastewater discharge permit to any User who has failed to comply with the provisions of this Ordinance, or violated any order, or a previous wastewater discharge permit issued hereunder, unless that User first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

10.3 Public Nuisances

Any violation of this Ordinance, wastewater discharge permit, or orders issued hereunder, is declared a public nuisance and shall be corrected or abated as directed by the Manager or his designee. Any person(s) creating a public nuisance shall be subject to the provisions of the City Code § 20-2 governing such nuisances, including reimbursing the Utility for any costs incurred in removing, abating, or remedying said nuisance. Any discharger which makes, causes, or allows a prohibited discharge which causes additional expense or costs to handle and treat such discharge or to correct damages caused by such discharge shall be required to reimburse the Utility for such cost or expense.

SECTION 11 - SEVERABILITY

The provisions of this Ordinance are severable, and if any provision, paragraph, word, section, or article of this Ordinance is invalidated by any court of competent jurisdiction it shall not affect the remainder of this Ordinance and the remaining provisions, paragraphs, words, sections, and articles shall not be affected and shall continue in full force and effect.

11.1 Repeal of Prior Ordinances

All Ordinances and parts of Ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict, including but not limited to Articles I, II, III, IV, V, X, XI, and XII of Ordinance No. 15,344 passed on September 1, 1987.

**SECTION 12 - AUTHORITY OF LITTLE ROCK SANITARY SEWER COMMITTEE, EFFECTIVE DATE,
AND DECLARING AN EMERGENCY**

The City Board of Directors of the City of Little Rock has determined that it is essential that the Little Rock Sanitary Sewer Committee should have the authority to regulate the use of public and private sewers in accordance with the provisions contained in this Ordinance in order to accomplish the purposes thereof. Therefore, an emergency is hereby declared to exist, and this Ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect immediately after its passage and approval.

PASSED:

March 16, 1999
