

ORDINANCE NO. 121

New # 86-4-1

AN ORDINANCE PROHIBITING LITTER OF THE
CITY OF ELM SPRINGS, ARKANSAS; AND
DECLARING AN EMERGENCY.

WHEREAS, it has been brought to the attention of the City Council of the City of Elm Springs, Arkansas, that litter should be prohibited in order to promote public health, safety and general welfare of the citizens of Elm Springs and its surrounding areas; and

WHEREAS, that an Ordinance should be initiated prohibiting litter and setting out the fines for persons violating said restrictions.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELM SPRINGS, ARKANSAS, that the litter in the City of Elm Springs, Arkansas, shall be prohibited as follows:

LITTERING PROHIBITED

(1) It shall be unlawful to drop, deposit, discard, or otherwise dispose of any garbage, debris, trash or any other waste product of any kind upon any street, alley, sidewalk, bridge, public passageway, public park, any body of water or stream, public lands, or upon private property owned by another person, unless:

- (a) the property has been designated as a permitted disposal site;
- (b) the litter is placed into a receptacle intended for the deposit of litter.

(2) Any person convicted for a violation of such provision of this ordinance shall be adjudged to pay a fine of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00).

EMERGENCY CLAUSE: It is hereby declared that an emergency exists and that this ordinance being necessary for the preservation of the health, safety and welfare of the citizens of Elm Springs, Arkansas, become effective immediately upon its passage, approval and publication.

PASSED AND APPROVED this 7 day of April,
1986.

Jack H. Hellstern
JACK HELLSTERN, MAYOR

ATTEST:

Betty Lewis
Secretary Treasurer

ORDINANCE NO. 93-9 A

City of Elm Springs, Arkansas

AN ORDINANCE ESTABLISHING SEPTIC TANK REQUIREMENTS IN THE CITY OF ELM SPRINGS, ARKANSAS; ESTABLISHING A PENALTY THEREFOR AND DECLARING AN EMERGENCY.

WHEREAS, it is deemed necessary by the City Council, City of Elm Springs, Arkansas, that all septic tank systems situated within the corporate limits of the City of Elm Springs, Arkansas, should be regulated; and,

WHEREAS, under the laws of the State of Arkansas, any tracts of land 10 acres or larger, are not subject to the Arkansas Health Department regulations pertaining to installation of individual sewage disposal systems; and,

WHEREAS, it is deemed important and necessary by the City Council of the City of Elm Springs, Arkansas, that no exceptions to regulation of such septic tank systems be made to property situated within the corporate limits of the City of Elm Springs, Arkansas;

NOW, THEREFORE, be it enacted by the City Council of the City of Elm Springs, Arkansas, as follows:

Section 1: That no individual sewage disposal system shall be installed within the corporate limits of the City of Elm Springs, Arkansas, unless the said shall conform to the requirements of the Arkansas Department of Health as established in Act 402 of 1977 (Ark. Code Ann. § 14-236-101 et seq.), and a permit obtained from the Washington County Health Unit.

Section 2: That all such sewage systems installed within the corporate limits of the City of Elm Springs, Arkansas, must be installed by a licensed septic system installer.

Section 3: That the City Building Inspector shall be authorized to require any property owners in violation of this ordinance to take the necessary action to correct the non-complying individual sewage disposal systems within 30 working days of being notified, after which, each day's failure to take corrective action shall be punishable by a fine of not less than \$5.00, nor more than \$15.00, for each day the system is in violation.

Section 4: That it is hereby established and declared that the health, safety and welfare of the residents and citizens of the City of Elm Springs are in danger from malfunctioning individual sewage disposal systems within the corporate limits of

the City of Elm Springs, and, therefore, an emergency is hereby declared to exist, whereby this ordinance shall take effect and be in full force from and after its passage, as provided by law.

IT IS SO ORDAINED.

PASSED AND APPROVED on this 6th day of Sept., 1993.


THOMAS D. LUNDSTRUM, MAYOR

ATTEST: Barbara Anne Dillard
BARBARA ANN DILLARD, CITY RECORDER

ORDINANCE NO. 2001 - 03

**AN ORDINANCE PROHIBITING
DISTURBANCES AND UNNECESSARY NOISES**

Whereas, the City Council of the City of Elm Springs, Arkansas has determined that it is in the best interest of the City of Elm Springs and its citizens to establish an Ordinance Prohibiting Disturbances and Unnecessary Noises.

NOW THEREFORE be it ordained by the City Council of the City of Elm Springs, Arkansas:

- Section 1: Loud Noise Unlawful
- Section 2: Unnecessary Noise Standards
- Section 3: Violation
- Section 4: Repeated Violations
- Section 5: Injunction
- Section 6: Emergency Clause

Section 1: Loud Noise Unlawful. It shall be unlawful for any person to make, continue, or cause to be made or continue any excessive, unnecessary or unusually loud noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the limits of the City.

Section 2: Unnecessary Noise Standards. The following acts, among others, are declared to be excessive, loud, disturbing and unnecessary noises in violation of this ordinance, but said enumeration shall not be deemed to be exclusive:

- A. Horns, signaling devices. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle or no vehicle on any street or public place of the city, except as a danger or theft warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time.
- B. Radios, phonographs. The using, operating, or permitting to be played, used or operated any radio, stereo, receiving set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with loud volume than is necessary for convenient hearing for the person or persons who

are in the room, vehicle, area or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of ten o'clock p.m. (10:00 p.m.) and seven o'clock a.m. (7:00 a.m.) in such a manner as to be plainly audible (a) at a distance of one hundred (100) feet from the building, structure, vehicle or area in which it is located, or (b) at any distance within another's dwelling with windows closed, shall be a violation of this section.

C. Yelling, shouting. Yelling, shouting, hooting, whistling, singing, or using vulgar language on the public streets at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity.

D. Animals, birds. The keeping of dogs, cats or any animal or bird which causes frequent or continued noise shall disturb the comfort or repose of any persons in the vicinity.

Section 3: Violation. Any person found guilty of violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereon shall be fined an amount not less than One Hundred Dollars (\$100.00) and not exceeding Three Hundred Dollars (\$300.00). Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

Section 4: Repeated Violations. Upon the second and subsequent conviction for violation of this ordinance within a twelve (12) month period of time from a conviction on a previous violation, the fine shall be increased to a minimum of Three Hundred Dollars (\$300.00) and a maximum of Five Hundred Dollars (\$500.00) and not more than ten (10) days in jail.

Section 5: Injunction. As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision hereof shall be deemed, and is declared to be, a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a Court of competent jurisdiction.

Section 6: Emergency Clause. It has been found and hereby is declared by the City Council that this ordinance is immediately required in order to facilitate the development inside the City of Elm Springs, and to promote the welfare of the City and

its citizens. Therefore, an emergency is hereby declared to exist in this ordinance being necessary for the preservation of the orderly development of the City and for the health and safety of its citizens shall be in full force and effect from the date of its passage and approval.

PASSED AND APPROVED this 5th day of March, 2001.

Ed Thiesse
Ed Thiesse, Mayor

Glenda Pettus
Glenda Pettus, City Clerk

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Ed Threese and Linda Lettuo, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, ~~Washington~~ Benton County, Arkansas, that a certified copy of Ordinance No. 2007-03 (the "Noise Ordinance") was, on the 11th day of April, 2001, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10, and that the Ordinance remained posted for thirty (30) days.

DATED this 11th day of April, 2007.

Edward Threese
Mayor

Linda Lettuo
City Clerk

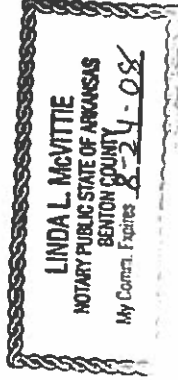
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 11th day of April, 2007.

Linda J. McVittie
Notary Public

My Commission Expires:

8-24-2008



ORDINANCE NO. 2001-09

CITY OF ELM SPRINGS, WASHINGTON COUNTY, ARKANSAS

AN ORDINANCE CREATING THE ELM SPRINGS
SEWER COMMITTEE; DECLARING AN
EMERGENCY; AND PRESCRIBING OTHER
MATTERS RELATED THERETO.

WHEREAS, no sewer committee currently exists in the city of Elm Springs, Arkansas (the "City") and;

WHEREAS, pursuant to Ark. Code Ann. § 14-235-206, the City is authorized to create and maintain a city sewage collection system supervised by a committee to be designated for that purpose by the municipal council.

WHEREAS, the City Council is pursuing the construction of an alternate sewer system for the City of Elm Springs, and to proceed with this project, a sewer committee is needed to plan for this project and provide for the benefit of the citizens of the City.

NOW THEREFORE, BE IT ENACTED, by the City Council (the "Council") of the City of Elm Springs, as follows:

Section 1. There hereby is created a Committee of the City of Elm Springs, Arkansas, to be known as the "Elm Spring Sewer Committee" which shall be comprised of five (5) members who shall serve with such compensation, if any, for attendance of meetings as may be authorized by subsequent ordinances adopted by the Council.

Section 2. The Committee shall have all of the powers and duties bestowed by Ark. Code Ann. § 14-235-207 (1999). As set forth therein, the Sewer Committee will have the power to take all steps and proceedings and to enter into all contracts and agreements necessary or incidental to the performance of its duties, except any contract relating to financing or any trust indenture shall be approved by the Council before it is effective. The Committee may employ engineers, architects, inspectors, managers, etc., as may be necessary in the execution of its powers and duties, and may fix their compensation. All compensation, expenses and liabilities shall be paid solely from funds provided to the Sewer Committee and the Committee may not bind the municipality beyond this amount.

No contract or agreement shall be made with a contractor for materials or labor for over \$10,000 without advertising for bids. Bids must be publicly opened and award made to the best bidder, with power in the Committee to reject any or all bids.

After construction or acquisition of the works, the Committee shall:

- (a) operate, manage and control them and may order and complete any extensions, betterments and improvements if funds are available or are made available;
- (b) establish rules and regulations for the use and operation of works and other sewers and drains connected to them; and
- (c) do all things necessary and expedient for the successful operation of the works.

Section 3. The members of the Committee shall be appointed by the Mayor of Elm Springs and shall become valid following confirmation of such appointments by the Council. The initial terms of the members of the Committee shall be for two (2) years. The Mayor has appointed the initial members of this Committee to be **Jim Crownover, Coy Patton, Jane Waters, Jim Stacy and Glen Canup**, all of whom are hereby confirmed by the Council.

Section 4. The Committee shall function under the control of the Council. The Council may remove any member of the Committee, with or without cause, and may appoint any substitute members in case of death, removal, or resignation.

Section 5. It has been found and is hereby declared by the Council that this Ordinance is immediately required in order to address the municipal sewer project for the development and preservation of the City and for the benefit of the citizens of Elm Springs.

EMERGENCY CLAUSE: For the reason that critical planning of the City's sewer system must be commenced immediately in order to meet the City's needs, it is hereby declared that an emergency exists and that this ordinance being necessary for the preservation of the health of the citizens and the development and preservation of the City of Elm Springs, Arkansas shall become effective immediately upon its passage, approval and publication.

PASSED AND APPROVED this 3rd day of ~~November~~ ^{December} 2001.

ATTACHED TO ORDINANCE ADOPTING SEWER COMMITTEE DATED
DECEMBER 3, 2001

APPROVED:

Edward Thiéssé
Mayor Edward Thiéssé

ATTEST:

Glenda Pettus
Glenda Pettus, City Clerk / Recorder

(SEAL)

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Edward Thiese and Wenda Lettice, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2001-09 (the "Public Com. Ordinance") was, on the 4th day of December, 2001, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10, and that the Ordinance remained posted for thirty (30) days.

DATED this 4th day of December, 2001.

Edward Thiese
Mayor

Wenda Lettice
City Clerk

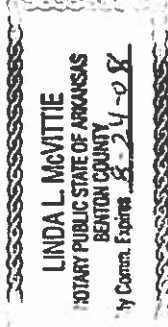
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 4th day of Dec, 2001.

Linda J. McVittie
Notary Public

My Commission Expires:

8-24-08



CITY OF ELM SPRINGS
ORDINANCE NO. 2003-1

**AN ORDINANCE AMENDING SECTION 4C UTILITIES OF THE
SUBDIVISION ORDINANCE OF THE CITY AND DECLARING
AN EMERGENCY**

Be it ordained that the City of Elm Springs Subdivision Ordinance, Section 4C UTILITIES, Sewer be and hereby is amended as follows:

The Developer shall insure that adequate toilet facilities shall be maintained on the site and readily available for all employees of the Developer, his contractors or assigns. Toilets shall be located so as to be readily and conveniently available to all employees and inconspicuous to the public. They shall be regularly maintained according to current applicable health and safety requirements.

One toilet facility shall be provided for each 20 employees working on the site. as a guideline, no employee shall have to walk more than 1320 feet from his work station to the toilet.

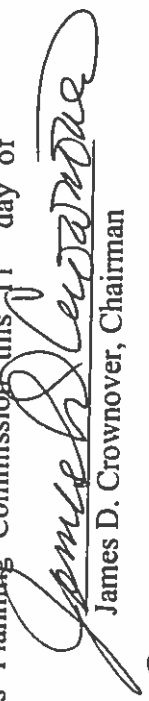
Toilet facilities shall be in place and operational no later than commencement of any work at the site and shall remain in place and operational until all work has been completed.

This Ordinance shall apply to all construction conducted on the site, including structure construction on individual lots. In the case of individual lot construction, 'Developer' is understood and hereby defined to be the principal contractor for the construction. In this case, facilities may be shared by contractors on adjacent lots so long as the facilities are centrally located and serve no more than four contiguous lots per facility. All portable toilets shall be located inconspicuously within the building setback lines of the site.

In addition to the penalties listed in this Ordinance, City officials may order all construction activities to cease until the provisions and requirements of this Ordinance are satisfactorily met.

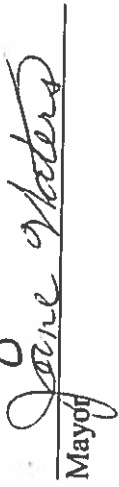
EMERGENCY CLAUSE: It is hereby declared that an emergency exists and that this ordinance, being necessary for the preservation of the health, safety and welfare of the citizens of Elm Springs, Arkansas, become effective immediately upon its passage, approval and publication.

Passed and Approved by the Elm Springs Planning Commission this 1th day of November, 2002.


James D. Crownover, Chairman

PASSED AND APPROVED this 6th day of January, 2003.

Attest 
City Clerk


Mayor

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Orne Whitton and Glenda Feltus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2003-1 (the "Utilities Ordinance") was, on the 25th day of March, 2003, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10, and that the Ordinance remained posted for thirty (30) days.

DATED this 25th day of March, 2003.

Jane Waters
Mayor

Linda Feltus
City Clerk

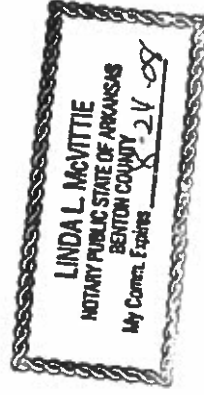
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 27th day of March, 2003.

Linda M. Vukic
Notary Public

My Commission Expires:

8-24-08



ORDINANCE NO. 2003- 04

**AN ORDINANCE TO AMEND AND
RATIFY THE 2003 BUDGET FOR
THE CITY OF ELM SPRINGS TO
PROVIDE FOR SEWER FUNDS**

WHEREAS, the City of Elm Springs had appropriated monies in its 2002 Budget to finance the planned sanitary sewer system; and

WHEREAS, it is in the best interest of the City of Elm Springs and its citizens that the 2003 Budget adopted by the City be amended to reflect the actual income and expenditures of the City of Elm Springs, including the monies already appropriated, but not reflected in the current 2003 Budget.

NOW THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Elm Springs, Arkansas:

Section 1. That the City of Elm Springs hereby amends and ratifies the budget for the year 2003 as reflected in the attached Exhibit "A."

Section 2. That Ordinance No. 2003-2 be amended to comply with paragraph 1 above.


Section 3. That the status of the Elm Springs Sewer System is such that the sewer system appropriation should be reflected in the 2003 Budget immediately, in order to continue the progress on the sewer project. Therefore, an emergency is hereby declared to exist and this ordinance being necessary for the preservation of the orderly development of the City and for the health and safety of its citizens shall be in full force and effect from this date of its passage and approval.

PASSED AND APPROVED this 19th day of May, 2003.

APPROVED:


Jane Waters, Mayor City of Elm Springs

ATTEST:


Glenda Pettus, City Clerk

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Linda L. McVittie, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2003-04 (the Budget Amend for Special Funds Ordinance) was, on the 20 day of June, 2003 duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10, and that the Ordinance remained posted for thirty (30) days.

DATED this 20 day of June, 2003.

Jane Waters
Mayor

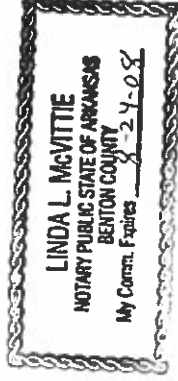
Linda L. McVittie
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 30th day of June, 2003.
"
"
Linda L. McVittie
Notary Public

My Commission Expires:

8-24-08



Budget - Elm Springs, AR

Education	2,500	1,500	1,500
Repairs & Maintenance	44,000	9,775	10,000
Office Equipment	3,500	378	3,000
Police Equipment	2,000	600	1,000
Police Auto Gas Oil Maintenance	9,000	9,000	10,000
Police Uniforms	1,500	1,500	2,300
	-	-	-
Police Supplies & Ammunition	500	1,060	1,000
Other	9,111	45,000	7,500
Retirement Plan	8,400	14,096	14,573
Engineering Fees - Sewer System Design	6,800	147,000	45,000
Planning Advisor	5,500	6,000	6,000
Transfers to Street Fund	45,000	41,378	56,000
Transfers to Sewer Fund	-	-	1,600,000
TOTAL EXPENSES	387,064	541,695	2,030,208
			430,208
+ or -	26,143	19,478	11,349
Amount proposed for Carryover		(19,478)	

ORDINANCE NO. 2003- 07

AN ORDINANCE ADOPTING
SEPTIC TANK REGULATIONS FOR THE
CITY OF ELM SPRINGS, ARKANSAS,
AND DECLARING AN EMERGENCY

WHEREAS, the Sewer Committee for the City of Elm Springs has adopted Septic Tank Regulations and recommends their adoption by this Council; and,

WHEREAS, the adoption and application of these regulations is vital to the continuing sewer project and the health and safety of the citizens of Elm Springs, Arkansas.

NOW, THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Elm Springs:

Section 1: The Septic Tank Requirements, as passed by the City of Elm Springs Sewer Committee, which are attached hereto are hereby adopted and shall apply to the installation of all septic systems within the City of Elm Springs. No builder or developer shall receive a permit for further construction until all construction is fully compliant with this ordinance

Section 2: Enforcement. Any violation of this ordinance shall be considered a misdemeanor, and shall be punishable with a fine of forty dollars (\$40.00) for the offense, and thirty dollars (\$30.00) per day for each subsequent day of violation.

Section 3. This Ordinance shall take effect and be in force and effect from and after its passage, and that this Ordinance supercedes and replaces any other Ordinances in conflict herewith. In the event any one or more of the provisions contained in this Ordinance shall for any reason be held by a Court of Law to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this Ordinance, and this Ordinance shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

Section 2: Emergency Clause. It has been found and hereby is declared by the City Council that this ordinance is immediately required for the proper functioning of the City government, and to promote the welfare of its citizens. Therefore, an emergency is hereby declared to exist and this ordinance being necessary for the preservation of the orderly development of the City and for the health and safety of its citizens shall be in full force and effect from the date of its passage and approval.

PASSED AND APPROVED this 18th August day of 2003.

Attest:

Glenda Pettus
Glenda Pettus, City Clerk

Jané Waters
Jané Waters, Mayor

CITY OF ELM SPRINGS
SEWER COMMITTEE

SEPTIC TANK REQUIREMENTS

Revised August 4, 2003

This regulation is to condense and clarify the City's ordinance adopting specifications for the STEP septic tanks, their installation and set penalties for noncompliance with the ordinance. The Arkansas State Health Department approved Standard Sewer Specifications for construction of the Elm Springs Wastewater System, ADH approval dated December 31, 2002, Project #32568-2, shall govern in all questions or conflicts of this condensed ordinance. Any questions on material or methods should reference these approved standards. A copy of these rules shall be attached to each building permit issued by the City, and a copy signed by the applicant retained by the building inspector.

All septic system designs shall be submitted to the City Inspector for approval before they are released by the Designated Representatives for construction. The City Inspector, acting as the representative of the Sewer Committee shall sign off on the design. The installer shall notify the City Inspector at least 24 hours prior to installing the tank and shall not backfill before inspection. See attached sketches for dimensions.

All septic tanks installed after October 1, 2001 must be totally compatible with adoption for the STEP system. These tanks shall be connected to the STEP System as soon as the system is operational. The specific requirements are as follow:

1. All septic tanks shall have a minimum nominal liquid capacity of 1250 gallons for up through 3 bedroom homes. Homes with more than 3 bedrooms shall have septic tanks with a minimum nominal liquid capacity of 1500 gallons. For homes with more than 8 permanent occupants, the septic tank size shall be determined by the City's design engineer, in accordance with existing Health Department guidelines and rules.
2. All tanks shall be structurally sound and watertight and shall be guaranteed in writing by the tank manufacturer for a period of two years from the date of final acceptance.
3. All tanks shall have an access opening of 20" in diameter. No two compartment or pumping wells shall be acceptable.
4. The inlet tee shall penetrate the liquid at least 18" below the inlet flow line and shall allow for natural ventilation through the building sewer and vent stack.
5. Only concrete and fiberglass tanks are approved for use at the present time.
6. The following requirements apply to concrete septic tanks.
 - a. The bottom slab and walls shall be poured monolithically.
 - b. All Components of the tank shall be reinforced with ASTM A-615 Grade 60 steel.
 - c. Concrete shall have a cement content of no less than 6 bags per cubic yard and reach a minimum compressive strength of 4000 PSI at 28 days.

- d. Tanks shall be watertight, with a waterproofing additive added at the time of batching equal to XYPEX ADMIX C-1000. It may be protected inside and outside by an approved waterproof coating.
 - e. Tanks must cure at least 7 days before delivery to the installation site.
 - f. The tanks shall be manufactured and furnished with access openings as required by the Orenco STEP system.
 - g. The top shall be sealed to the tank with a preformed flexible plastic gasket.
 - h. It cannot be overemphasized that the septic tank and its appurtenances **must be watertight**.
 - i. The manufacturer's warranty must certify water-tightness for the two year period specified in item 2 above. Tanks suspected of not being watertight may be subject to testing at the owner/installer's expense.
7. Fiberglass tanks shall conform to the specifications as adopted and approved by Orenco Systems.
8. Installation shall be in accordance with the manufacturer's recommendations.
9. Risers and lids shall be installed according to the manufacturer's instructions. The tank shall be installed so that the riser top is flush with the finished grade. All tanks shall be bedded in washed graded gravel, finished 80 inches below desired final surface grade.
10. All installations must have a dedicated easement as specified by the Sewer Committee from the inlet of the septic tank to the collection facilities. The easement shall be properly executed and signed before final acceptance of the installation.
11. Each installation shall have a 30 Amp, 120 Volt circuit available on the exterior of the building adjacent to the tank riser installation.
12. The pump shall be the specified Orenco pump with the approved Orenco Systems control panel Model SIROETMCT. The panel shall be set at eye level (5 to 6 ft.) within sight of the tank on the building outside wall or as approved. Care should be taken not to put the panel on the exterior wall of a noise sensitive room such as a bedroom.

After the STEP system is operational and when all requirements for an installation are met, the City will assume ownership, operation and maintenance responsibilities from the inlet of the septic tank to the core collection system.

Any installation that does not comply with the above requirements and the City's adopted ordinance concerning STEP septic systems shall not pass the plumbing inspection by the City Inspector until brought into compliance. In addition, any builder, plumber or developer who refuses to comply with these requirements shall not receive a permit for further construction within the City of Elm Springs until all construction complies with STEP System requirements. Any noncompliant system shall be brought into compliance before final inspection. A fine of \$40.00 plus \$30.00 for each subsequent day thereafter shall be levied against the permit applicant.

Applicant: _____

Date: _____

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Wanda Peters, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2003-07 (the "Sept. Tank Ordinance") was, on the 20th day of August, 2003, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10, and that the Ordinance remained posted for thirty (30) days.

DATED this 20th day of August, 2003.

Jane Waters
Mayor

Wanda Peters
City Clerk

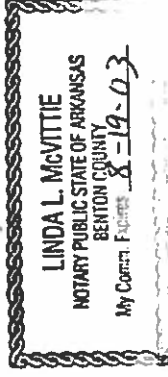
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 19th day of Aug, 2003.

Linda L. McVittie
Notary Public

My Commission Expires:

8-19-03



ORDINANCE NO. 2003-12

AN ORDINANCE FOR THE TOWN OF ELM SPRINGS SEWERAGE SYSTEM REGULATING THE USE OF PUBLIC AND PRIVATE SEWERS AND DRAINS, PRIVATE WASTEWATER DISPOSAL, THE INSTALLATION AND CONNECTION OF BUILDING SEWERS, AND THE DISCHARGE OF WATER AND WASTES INTO THE PUBLIC SEWER SYSTEM, PROVIDING PENALTIES FOR VIOLATION THEREOF AND DECLARING AN EMERGENCY..

THE COUNCIL OF THE TOWN OF ELM SPRINGS, AR ORDAINS AS FOLLOWS:

SECTION 1. DEFINITIONS:

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

- Sec. 1.001. APHA: American Public Health Association
- Sec. 1.002. ASTM: American Society for Testing and Materials
- Sec. 1.003. AWWA: American Water Workers Association
- Sec. 1.004. Board: The Sewer Committee of the Town of Elm Springs, AR
- Sec. 1.005. Building drain: that part of the lowest horizontal piping of a drainage system which receives the discharge from waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning immediately outside the building wall.
- Sec. 1.006. Connection fee: the fee charged for connection to the system including a proportionate share of the cost for constructing the System plus the average cost for materials and labor in making the actual connection and other costs as determined by the Board.
- Sec. 1.007. County: Washington County, Arkansas
- Sec. 1.008. EPA: Environmental Protection Agency
- Sec. 1.009. Easement: an acquired legal right for the specific use of land owned by others.
- Sec. 1.010. Electrical service: circuit used exclusively for the pumping facilities in the interceptor tank.
- Sec. 1.011. Final assessment order: that order entered by the Board pursuant to

establishment of sewer service and connection fees.

Sec. 1.012. Floatable oil: oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

Sec. 1.013. Garbage: the animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.

Sec. 1.014. Elm Springs Sewerage System: that pressure sewer system installed and subsequent extensions thereof by the Town of Elm Springs, AR pursuant to the order entitled "A Ordinance Amending the Building Code to Require Water Tight Septic Systems to be installed in all new installations and any replacements, adopting the emergency clause and for other purposes" and dated October 1, 2001.

Sec. 1.015. Industrial wastes: the wastewater from industrial processes, trade, or businesses as distinct from domestic or sanitary wastes.

Sec. 1.016. Interceptor tank: a septic tank-like structure which contains facilities for pumping effluent or a vault containing a grinder pump.

Sec. 1.017. May: is permissive.

Sec. 1.018. Natural outlet: any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

Sec. 1.019. Owner: also includes purchaser under land sale contract.

Sec. 1.020. Person: any individual, firm, company, association, society, corporation, or group.

Sec. 1.021. pH: the logarithm of the reciprocal of the hydrogen—ion concentration. The concentration is the weight of hydrogen-ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration of 10^{-7} .

Sec. 1.022. Practical route: that route determined by the Superintendent to be economically feasible.

Sec. 1.023. Properly shredded garbage: 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 the building drain with no particle greater than 1/2 inch (1.27 centimeters) in any dimension.

- Sec. 1.024. Public sewer: The Town of Elm Springs Sewerage System also referred to as System, including interceptor tanks, pumping facilities, service lines, system piping and control panels.
- Sec. 1.025. Sanitary sewer: a sewer that carries liquid and water carried wastes from the residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.
- Sec. 1.026. Service fees: the fees, normally monthly, levied for operation and maintenance of the System.
- Sec. 1.027. Service lines: Piping installed on property to connect the interceptor tank serving the structures thereon to the system piping. Unlike a lateral of a main or a main, service lines are not designed or intended to receive effluent flow from structures other than those structures with wastewater plumbing existing on the property when the lines were installed.
- Sec. 1.028. Sewage: the spent water of a community. The preferred term is “wastewater”.
- Sec. 1.029. Sewer: a pipe or conduit that carries wastewater or drainage water.
- Sec. 1.030. Shall: is mandatory.
- Sec. 1.031. Slug: any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow shall adversely affect the collection system or performance of the wastewater treatment works.
- Sec. 1.032. Storm drain (or “storm sewer”): a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.
- Sec. 1.033. Superintendent: The Town of Elm Springs, AR or it’s authorized deputy, agent or representative.
- Sec. 1.034. Suspended solids: total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in “Standard Methods for the Examination of Water and Wastewater”.
- Sec. 1.035. System: See Sec. 1.014.
- Sec. 1.036. System piping: the main transmission lines and its laterals which collect wastewater from service lines.
- Sec. 1.037. Unpolluted: water of quality equal to or better than the effluent criteria in

effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

Sec. 1.038. WEF: Water Environment Federation

Sec. 1.039. Wastewater: the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions.

Sec. 1.040. Wastewater facilities: the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent. Wastewater facilities include the interceptor tanks, pumping facilities, service lines, system piping and control panels.

Sec. 1.041. Wastewater treatment works: an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with “waste treatment plant” or “wastewater treatment plant” or “water pollution control plant.”

Sec. 1.042. Water course: a natural or artificial channel for the passage of water either continuously or intermittently.

Sec. 1.043. Vacant property: property with no houses located upon it or property which has a building or structure upon it but such building or structure does not have plumbing.

SECTION 2. USE OF PUBLIC SEWERS REQUIRED

Sec. 2.001. It shall be unlawful to discharge to any natural outlet any wastewater or other polluted waters, from any house, building or structure located within the City Limits of Elm Springs.

Sec. 2.002. Except as hereinafter provided, it shall be unlawful to construct or use any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

Sec. 2.003. The City shall endeavor to provide access to the System at the property line of each residence or business generating wastewater. Structures existing at the time of adoption of this ordinance may connect at any time and shall connect upon failure or expansion of their existing system. The owners of all property within the boundaries of the Town of Elm Springs, AR are hereby required, in accordance with the provisions of this ordinance and within 60 days after date of official notice to do so, to connect the wastewater plumbing of any house, building, or structure subsequently

developed, to the System .

Sec. 2.004(a). Proceedings to extend system piping to an owner or owners of property within the boundaries of the Town of Elm Springs, AR who did not connect the wastewater plumbing of any house, building or other structure to the system because the system piping was not provided at the property line may be initiated by the Board by resolution or by a petition to the Board. Provided, however, that such owner or owners may request the superintendent for connection to the existing system by a service line or lines. If such request is granted the requesting owner shall pay the prevailing connection fee plus the actual costs of installing any piping beyond the system piping. If the superintendent determines, however, that extension by service lines is unfeasible or otherwise unwarranted because an extension of system piping is called for, he shall not grant the request and advise the requesting owner or owners to petition the Board for an extension of system piping.

Sec 2.004(b). The Board may extend system piping beyond the boundaries of the Town if, after hearing, it finds such extension conforms to any applicable comprehensive land use plan.

SECTION 3. PRIVATE WASTEWATER DISPOSAL

Sec. 3.001. Where a public sanitary sewer is not available under the provisions of Sec. 2.003, the building sewer shall be connected to a private wastewater disposal system complying with the subsurface sewage disposal provisions of the State of Arkansas and appropriate ordinances of the Town of Elm Springs, AR.

Sec. 3.002. At such time as a public sewer becomes available to a property served by a private wastewater disposal system, a direct connection shall be made to the public sewer within 60 days after official notice to do so in compliance with this ordinance, and any septic tanks, cesspools, and similar private wastewater disposal facilities not utilized in the connection to the public sewer shall be cleaned of sludge and filled with suitable material or removed or crushed.

SECTION 4. SEWER, CONNECTIONS AND DESIGN

Sec. 4.001. No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent.

Sec. 4.002. There shall be three classes of written permits:

Sec. 4.002(a). Single family residential;

Sec. 4.002(b). Commercial, multi-family including mobile home parks or any other service which will use an interceptor tank utilized by more than one building, structure, or

mobile home or which will have a flow exceeding the equivalent flow of a single family residence;

Sec. 4.002(c). Establishments producing industrial wastes. The owner(s) or his agent shall make application on a special form furnished by the Sewer Committee. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the superintendent or as required in Sec. 4.015 and shall be accompanied by a properly executed easement approved by the superintendent which permits access by the Town to owner's property for the purpose of installing, constructing, maintaining, and inspecting service lines, interceptor tanks and control panels serving the owner's property.

Sec. 4.003. No permit shall be issued under Sec. 4.002 for vacant property until the final assessment order is made.

Sec. 4.004. All costs and expenses incidental to the installation and connection of the building sewer and electrical service shall be borne by the owner(s). Said connection shall normally be made at the property line or as outlined in Sec. 2.004(a). The owner(s) shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

Sec. 4.005. A separate and independent 30 amp electrical service shall be provided by the owner at every interceptor tank.

Sec. 4.006. Existing building sewers may be used in connection with new buildings only when they meet all requirements of the applicable plumbing code.

Sec. 4.007. The size, slope, alignment, materials of 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 State of Arkansas. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM, EPA, AWWA and WEF Manuals shall apply.

Sec. 4.008. 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 interceptor tank, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

Sec. 4.009. No person(s) shall make connection of roof downspouts, 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 unless such connection is approved by the superintendent in writing for purposes of disposal of polluted surface drainage. Otherwise, no infiltration or inflow shall be permitted.

Sec. 4.010. The connection of the building sewer into the interceptor tank shall conform to the requirements of the applicable plumbing code. All such connections shall be made gas tight and water tight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

Sec. 4.011. The applicant for the sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the interceptor tank. The connection and testing shall be made under the supervision of the superintendent or his representative.

Sec. 4.012. All excavations for 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 Town. Street crossings shall be made in accordance with the City Minimum Street Standards.

Sec. 4.013. Plumbing within newly constructed houses, buildings, or structures shall be so oriented unless otherwise approved by the Superintendent as to allow the building sewer to stem from the side closest to the system piping.

Sec. 4.014. Every building, residence, or structure located on a single parcel of property may have a common interceptor tank of adequate capacity. Upon sale of a subdivided or partitioned parcel with a house, building, or structure without an interceptor tank located on the parcel after division, an interceptor tank, control panel and proper piping shall be installed so that each parcel has independent sewerage facilities.

Sec. 4.015. With each application for a class 4.002(b) or 4.002(c) permit or for an application to provide sewers to a subdivision the applicant shall submit one set of plot plans showing the general layout of the proposed development at a scale no smaller than 1"=100' and showing the following:

- (i) Name of owner and applicant
- (ii) Name of person who prepared plans
- (iii) Scale used
- (iv) Property line and both existing and proposed layout.
- (v) Building sewers or sewer connections and their distance from system piping (See Sec. 4.013)
- (vi) Existing and proposed water lines and other underground utility lines
- (vii) Buildings
- (viii) Streets and easements
- (ix) Existing private sewage disposal systems.
- (x) Topographic information based on 2ft contours if requested
- (xi) Building setback lines.

SECTION 5. USE OF PUBLIC SEWERS

- Sec. 5.001. No person(s) shall discharge or cause to be discharged any unpolluted waters such as stormwater, groundwater, roof runoff, subsurface drainage, or cooling water to any sewer.
- Sec. 5.002. No person(s) shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
- Sec. 5.002(a). Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
- Sec. 5.002(b). Any waters containing toxic or poisonous solids, liquids, or gases in sufficient concentration, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater facilities.
- Sec. 5.002(c). Any waters or wastes having a pH lower than 5.5 or greater than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater facilities.
- Sec. 5.002(d). 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 wastewater facilities such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, grease, diapers, cigarettes, whole blood, paunch manure, hair and fleshing, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders.
- Sec. 5.002(e). Ceramic dusts or particles or other abrasive substances.
- Sec. 5.002(f). Any water received through infiltration or inflow.
- Sec. 5.003. The following described substances, materials, waters, or waste shall be limited in discharges to the System to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The superintendent may set limitations lower than the limitations established in the regulations below if in his opinion such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability, the superintendent will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant, and

other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the Sewer Committee are as follows:

- Sec. 5.003(a). Wastewater having a temperature higher than 150°Fahrenheit (65°Celsius).
- Sec. 5.003(b). Wastewater containing more than 25 milligrams per liter of petroleum oil, non-biodegradable cutting oils, or product of mineral oil origin.
- Sec. 5.003(c). Wastewater from industrial plants containing floatable oils, fat, or grease.
- Sec. 5.003(d). Any garbage that has not been properly shredded (See Sec. 1.023).
- Sec. 5.003(e). Garbage grinders are discouraged.
- Sec. 5.003(f). Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the Sewer Committee for such materials.
- Sec. 5.003(g). Any waters or wastes containing odor-producing substances exceeding limits which may be established by the Sewer Committee.
- Sec. 5.003(h). Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Sewer Committee in compliance with applicable state or federal regulations.
- Sec 5.003(i). Quantities of flow, concentrations, or both which constitute a “slug” as defined in Sec. 1.031.
- Sec. 5.003(j). Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- Sec. 5.003(k). Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.
- Sec. 5.004. 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 Sec. 5.003, and which in the judgment of the superintendent, may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the superintendent may:

Sec. 5.004(a). Reject the wastes;

Sec. 5.004(b). Require pretreatment to an acceptable condition for discharge to the public sewers;

Sec. 5.004(c). Require control over the quantities and rates of discharge;

Sec. 5.004(d). Require payment to cover added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Sec. 5.009.

When considering the above alternatives, the superintendent shall give consideration to the economic impact of each alternative on the discharger. 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.

Sec. 5.005. 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 floatable grease in excessive amounts as specified in Sec. 5.003(c) or any flammable wastes, sand, or other harmful ingredients. 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. In the maintaining of these interceptors the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means of disposal which are subject to review by the superintendent. Any removal and hauling of the collected materials not performed by owner's personnel must be performed by currently licensed waste disposal firms. Any cleanup that shall be necessarily cleaned by the City shall be done at the owner's expense.

Sec. 5.006. Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner(s) at his expense.

Sec. 5.007. When required by the superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such structure, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the superintendent. The structure 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.

- Sec. 5.008. The superintendent may require an applicant or holder of a class 4.002(b) or 4.002(c) permit to provide information needed to determine compliance with this ordinance. These requirements may include:
- Sec. 5.008(a). Wastewaters discharge average and peak rate and volume over a specified time period.
- Sec. 5.008(b). Chemical and biological analysis of wastewaters sampled at specified times, locations, durations and frequencies.
- Sec. 5.008(c). Information on raw materials, processes, and products affecting wastewater volume and quality.
- Sec. 5.008(d). Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control.
- Sec. 5.008(e). A plot plan of sewers on the user's property showing sewer and pretreatment facility location.
- Sec. 5.008(f). Details of wastewater pretreatment facilities.
- Sec. 5.008(g). Details of system to prevent and control the losses of materials through spills to the public sewer.
- Sec. 5.009. All measurements, tests, and analysis of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater" published by the APHA. Sampling methods, location, times, durations and frequencies are to be determined on an individual basis subject to approval by the superintendent.
- Sec. 5.010. No statement contained in Section 2 Use of Public Sewers Required shall be construed as preventing any special agreement or arrangement between the Town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment.

SECTION 6. PROHIBITIONS

- Sec. 6.001. No person(s) shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities or drive a motor vehicle over any interceptor tank.
- Sec. 6.002. No person shall excavate within any area subject to a recorded easement granting the Town access and installation rights for wastewater facilities without first obtaining a permit to do so from the superintendent.

SECTION 7 POWERS AND AUTHORITY OF INSPECTORS

Sec. 7.001. The superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.

Sec. 7.002. The superintendent and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the purposes of inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities, lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

SECTION 8 SERVICE AND CONNECTION FEES

Sec. 8.001. Service fees shall be established by the Board and shall be charged to owners or purchasers under land sale contracts of property having wastewater plumbing in houses, building or structures connected to the system. Service fees shall begin when wastewater flow from property is processed by treatment facilities and be due and payable to the Town on dates and in an amount determined by the Board.

Sec. 8.002. A connection fee shall be charged to owners or purchasers under land sale contracts for connection to the System. Connection fees for properties described in the final assessment order shall be those fees for which the property owners are assessed as set forth in such order. Connection fees for all connecting to the System or required to connect to the System shall be established by order of the Board and shall consist of an EDU fee based on the estimated flow from the house, building or structure being connected as expressed in terms of the flow of the equivalent of an average single family dwelling unit (EDU) or whole multiples thereof plus a hookup fee to cover average actual hookup costs for a labor and materials. Connection fees for houses, buildings or structures may also contain an additional charge for every foot the interceptor tank is located beyond the system piping.

Sec. 8.003. Individual connection fees described in Sec. 8.002 or service fees may be raised by order of the superintendent, after hearing, when the superintendent finds that the actual wastewater flow from the house, building or structure is substantially in excess of the flow specified in the permit required by Sec. 4 or when the final assessments were made. Before raising a fee the superintendent shall notify in writing the person responsible for the fee or assessment of the intended increase. This notice shall contain the reasons for and the amount of the increase and the time, date and place the

superintendent will hear the matter. In raising the connection fee or assessment the superintendent shall take into consideration the amount of the initial fee, the cost of a connection fee at the time of the hearing, and the cost of any non-salvageable facilities installed. Any increase in fees shall be added by Board order and be payable under the provisions of this Ordinance. Any increase in connection fees shall be immediately due and payable. In lieu of raising the fee or assessment the superintendent may allow the person responsible for such fee to have the choice of reducing the flow to correspond to the flow indicated on the final permit. In such case flow shall be reduced within 30 days of the superintendent's order. If flow is not reduced and remained reduced for a period of 9 months after the order, the fee or assessment may be raised without further hearing.

After the final fee order is made, any owner or contract purchaser of property within the boundaries of the system may purchase as many additional class 4.002(b) or 4.002(c) connections as he desires for present and anticipated needs. The cost of such additional connections shall be the prevailing cost of an EDU fee (see Sec. 8.002). Hookup fees shall be paid at the time the actual connection is made and the cost shall be the prevailing fee at the time such connection is made.

Sec. 8.004. Individual connection fees described in Sec. 8.002 or service fees may be reduced by order of the Sewer committee when the superintendent determines:

Sec. 8.004(a). That the actual wastewater from the house, building or structure is substantially below the flow specified on the permit required in Sec. 4 or on final fee order;

Sec. 8.004(b). Or that an owner or purchaser under land sale contract who requested in writing an assessment for vacant property and such property was assessed pursuant to the final fee order was unable to obtain a building permit because of restrictions imposed by statute, ordinance or other governmental regulation;

Sec. 8.004(c). Or that the use for which the fee or assessment was based upon is changed and such use will utilize a substantially lesser sewage flow;

Sec. 8.004(d). Or that the structure for which the assessment was made or fee was established has been destroyed or removed and will not be rebuilt or replaced.

In order to reduce an assessment or fee the owner or contract purchaser of the property affected shall request the superintendent in writing for such reduction and give reasons therefore. The Sewer Committee shall then either grant the request or hold a hearing concerning such request. If a reduction for a connection fee or assessment is to be granted the Sewer Committee shall take into consideration the amount of the initial fee, the cost of a connection fee at the time of the hearing, the cost of any non-salvageable and salvageable facilities that have been installed and the number of years the facilities have been used.

If the assessment or connection fee is reduced the superintendent shall refund the difference in cash or cause the Board to enter an order to reduce the assessment if such assessment has not yet been paid. In no case may a fee or assessment be reduced below

the cost or flow of one EDU unless such reduction is a result of Section 8.004(b) or 8.004(d).

Sec. 8.005. Unpaid service or connection fees shall become a lien upon the real property upon which the house, building or other structure is connected or is required to be connected to the System.

Sec. 8.006. Electricity necessary to operate the interceptor tank pump shall be paid by the owner or contract purchaser.

SECTION 9 APPEALS PROCEDURE

Sec. 9.001. Any person aggrieved by a ruling under or interpretation of the provisions of this ordinance may submit a written appeal to the superintendent. The appeal shall set forth the events and circumstances leading to the appeal, the nature of the ruling or interpretation from which relief is sought, the nature of the impact of the ruling on appellant's property or business together with any other reasons for the appeal.

Sec. 9.002. The superintendent shall submit such appeal together with his recommendations to the Sewer Committee which shall forthwith appoint a committee of three members of the Sewer Committee to study the matter, hear testimony if deemed necessary, and submit recommendations and the findings and reasons for such recommendations to the full Sewer Committee within thirty days.

Sec. 9.003. The Sewer Committee shall consider the matter and prepare a written decision summarizing the findings and the ruling of the Sewer Committee which shall be sent to the appellant.

Sec. 9.004. In the event that the appellant considers that his grievance has not been handled to his satisfaction by the appointed committee, he may apply within thirty days from the date of the written decision to the full Sewer Committee for an independent review of his case . A copy of such application shall be sent to the appointed committee which shall forward to the full Sewer Committee its entire file on the case for review and decision. The full Sewer Committee shall make an independent review of the case and shall, in not more than thirty days from receipt of the appeal prepare a written decision on the matter which shall be sent to the applicant and to the appointed committee.

Sec. 9.005. Decisions of the Sewer Committee shall be accessible for review by the public.

Sec. 9.006. Conformance with this order shall in no way be a substitute for or eliminate the necessity of conforming with any and all state and county laws, ordinances and rules and regulations which are now or may in the future be in effect relating to the public health.

SECTION 10 PENALTIES

Sec. 10.001. If any person shall construct a public sewer, private sewer or building sewer in violation of this ordinance, the superintendent may issue an order to such person to stop work in progress which is not then in compliance with this ordinance or the superintendent may issue an order to correct work which has been performed. Such person shall forthwith take such action as may be necessary to comply with such order and with this ordinance, all at the expense of such person.

Sec. 10.002. The superintendent may order the owner of any property from which discharges prohibited by Section 5 are entering any sewer to correct such condition. The superintendent shall first give written notice of such prohibited discharge to the person, and only if such person fails to correct such condition within thirty (30) days after receipt of such notice, may the superintendent enter upon such property and remove or close sewer connections as hereinafter provided.

Sec. 10.002(a). Any person discharging any material deemed to be dangerous, injurious to treatment process, hazardous to any person, structure or treatment unit may be subject to immediate discontinuance of sewer service without prior notice at the discretion of the superintendent. The superintendent shall have the right to enter upon the person's property to remove or close sewer connections as hereinafter provided.

Sec. 10.003. Service fees levied in accordance with this ordinance shall be a debt due to the Town. If this debt is not paid within thirty (30) days after it shall be due and payable, it shall be deemed delinquent and may be recovered with penalties by civil action in the name of the Town against the property owner, the person or both.

Sec. 10.004. In the event of failure to pay service fees after they become delinquent, failure to cease discharging to the sewer substances prohibited by this ordinance, the superintendent shall have the right to remove or close sewer connections, and enter upon the property for accomplishing such purposes.

The expense of such removal, or closing, any penalties as well as the expense of restoring service, shall likewise be a debt due to the Town and may be recovered by civil action in the name of the Town against the property owner, the person, or both.

Sec. 10.005. Sewer service shall not be restored until all charges, including the expense of removal, closing, penalties, and restoration, shall have been paid and the cause for discontinuance of service corrected.

Sec. 10.006. Change of ownership of occupancy of premises found delinquent shall not be cause for reducing or eliminating these expenses.

Sec. 10.007. Any person found to be violating any provision of this ordinance shall be served by the Town 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.

Sec. 10.008. Any person who shall continue any violation beyond the time limit provided for in Section 10.002 or the time limit provided in the written notice required by this Section shall be guilty of a misdemeanor, and on conviction thereof, shall be fined in an amount not exceeding one hundred dollars (\$100.00) for each violation. Each day in which any violation shall continue shall be deemed a separate offense.

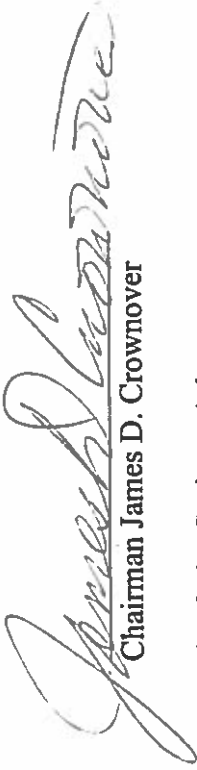
Sec. 10.009. Any person violating any of the provisions of this ordinance shall be liable to the Town for any expense, loss or damage occasioned by the Town by reason of such violation.

Sec. 10.010. The Town reserves the right to injunctive relief against violation of any of the provisions of this ordinance.

SECTION 11 EMERGENCY

Sec. 11.001. Whereas, it is necessary for this Ordinance to become effective for the immediate preservation and protection of the public peace, health, safety, and general welfare of Town of Elm Springs, an emergency is hereby declared to exist and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED BY the Sewer Committee of Elm Springs, Arkansas
on the 18 day of August 2007. 3


Chairman James D. Crownover

PASSED AND APPROVED BY the City Council of Elm Springs, Arkansas on
the 18 day of August 2007. 3


Mayor Ed Thiessie

JANE WATERS, MAYOR

ATTEST:


Recorder/Treasurer

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Opene Waters and Blenda Peters, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2003-12 (the "Sewer Ordinance") was, on the 20th day of August, 2003, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. CL-10, and that the Ordinance remained posted for thirty (30) days.

DATED this 20th day of August, 2003.

Jane Waters
Mayor

Blenda Peters
City Clerk

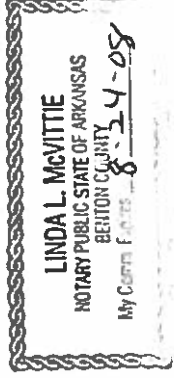
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 19th day of Aug, 2003.

Linda L. McVittie
Notary Public

My Commission Expires:

8-24-08



ORDINANCE NO. 2004.2

AN ORDINANCE FIXING RATES FOR SERVICES RENDERED BY THE SEWER SYSTEM OF THE CITY OF ELM SPRINGS, ARKANSAS; AND PRESCRIBING OTHER MATTERS RELATING THERETO.

WHEREAS, the City of Elm Springs, Arkansas (the "City") has determined that a sewer system should be constructed (the "Sewer System") in order that the City and its inhabitants may have adequate and proper sewer facilities; and

WHEREAS, the City Council has had prepared by a duly qualified consulting engineer a preliminary report and estimates of costs of the Sewer System, which have been examined and approved by the City Council and are on file with the City Recorder where they may be inspected by any interested person; and

WHEREAS, all or a portion of the costs will have to be paid from the proceeds of sewer revenue bonds to be purchased by an agency of the State of Arkansas; and

WHEREAS, it is necessary for the City to establish rates to be charged for services of the Sewer System;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Elm Springs, Arkansas:

Section 1. That the following monthly rates and charges which the City Council hereby finds and declares are fair, reasonable and necessary minimum rates be, and there are hereby, fixed as rates to be charged for services to be rendered by the Sewer System.

(a) Monthly Sewer Rates. All sewer charges shall be based on water consumption and the amount to be paid by each customer shall be computed on the basis of the following schedule of rates:

For the first 4,000 gallons of water consumption per month, or portion thereof

\$35.00 (minimum)

For all monthly water consumption

in excess of 4,000 gallons per month

5.00 per 1,000 gallons

(b) Tapping Fee. There shall be a tapping fee in an amount equal to \$100 for every customer who connects with the Sewer System.

(c) None of the facilities or services afforded by the Sewer System shall be furnished without a charge being made therefor.

Section 2. That all bills for services of the Sewer System shall be rendered monthly in the net amount due and must be paid by the 15th day of the month. If not so paid then a 10% penalty shall be added and a notice shall be sent by the City notifying such customer that his or her sewer service will be terminated. If any charge is not paid within 30 days after the bill is rendered, the sewer service can be disconnected and suit can be brought to collect the amount due, together with a reasonable attorney's fee, plus a penalty of 10%. A reconnection charge of all arrears shall be required before any premises so disconnected shall be again connected to the Sewer System.

Section 3. That the provisions of this Ordinance are separable and if a section, phrase or provision shall be declared invalid, such declaration shall not affect the validity of the remainder of this Ordinance.

Section 4. That all ordinances and resolutions and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

PASSED: February 16, 2004.

APPROVED:

ATTEST:

Glenda Letour
City Recorder

Jane Waters
Mayor

(SEAL)

CERTIFICATE

The undersigned, City Recorder of the City of Elm Springs, Arkansas, hereby certifies that the foregoing pages are a true and perfect copy of Ordinance No. 2004-2, adopted at a regular session of the City Council of the City of Elm Springs, Arkansas, held at the regular meeting place in said City at 6:30 o'clock p.m., on the 16th day of February, 2004, and that the Ordinance is of record in Ordinance Record Book No. 1, Page 2004-2, now in my possession.

GIVEN under my hand and seal on this 16 day of February, 2004.

Glenda Letlow
City Recorder

(SEAL)

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Ann White and Dona Letts, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2004-2 (the "Swim Lanes Ordinance") was, on the 20 day of February, 2004 duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10, and that the Ordinance remained posted for thirty (30) days.

DATED this 20 day of February, 2004.

Jane Waters
Mayor

Dona Letts
City Clerk

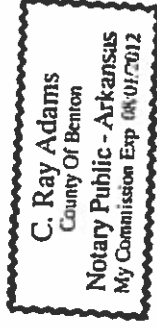
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 20 day of Feb, 2004.

C. Ray Adams
Notary Public

My Commission Expires:

8-01-12



ORDINANCE NO. 2004 - 05

AN ORDINANCE ESTABLISHING A PERMIT REQUIREMENT AND PERMIT FEE FOR THE INSPECTION OF RESIDENTIAL S.T.E.P. SEWER TANK INSTALLATIONS.

WHEREAS, there is considerable time and expense involved in the inspection of individual S.T.E.P. System tank installations and;

WHEREAS, proper and consistent installation of S.T.E.P. System tanks is vital to the integrity of the S.T.E.P. System; and

WHEREAS, no separate permit requirement and fee has been established for such inspections;

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELM SPRINGS, ARKANSAS,

Section 1. The fee for inspection of individual S.T.E.P. System tank installations shall be set at \$75.00 per unit of installation. Said unit shall include all or any portion of the tank, plumbing and electrical apparatus.

Section 2. A separate permit shall be required for any septic tank installation within the City of Elm Springs.

Section 3. This fee shall be assessed and collected in conjunction with the issuance of the required permit.

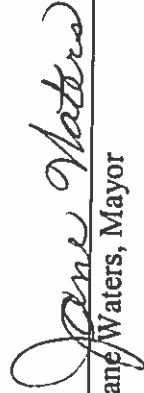
Section 4. All ordinances, and or parts of ordinances in conflict herewith are hereby repealed and this Ordinance shall be in full force and effect from and after its passage, approval and publication.

Section 5. Should any portion of this Ordinance be deemed illegal and/or unconstitutional and/or held null and void, said findings and/or holdings shall not affect the other portions of this Ordinance and any portion of this Ordinance not so found shall remain in full force and effect.

Section 6. **EMERGENCY CLAUSE:** Whereas, because of the rapid growth in residential construction and the burden this has placed on city staff and resources, as well as the necessity of maintaining strict control over the installation of S.T.E.P. System tanks, it is necessary for this Ordinance to become effective for the

preservation of the public peace, health and safety, an emergency is hereby declared and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED AND APPROVED THIS 15 DAY OF March, 2004.


Jane Waters, Mayor

ATTEST 
Glenda Pettus, City Clerk

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Glenda Petter, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2004-05 (the "Septic Installation Association Fee Ordinance") was, on the 20th day of May, 2004, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 20 day of May, 2004.

Jane Waters
Mayor

Glenda Petter
City Clerk

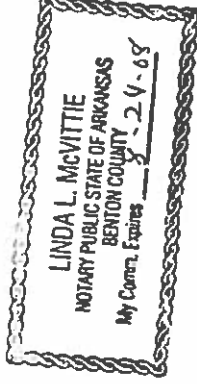
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 20th Day of May, 2004.

Linda L. McVittie
Notary Public

My Commission Expires:

8-24-08



ORDINANCE NO. 2004-06

AN ORDINANCE AUTHORIZING THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A SEWER SYSTEM FOR THE CITY OF ELM SPRINGS, ARKANSAS; AUTHORIZING THE ISSUANCE AND SALE OF A REVENUE BOND FOR THE PURPOSE OF FINANCING ALL OR A PORTION OF THE COST OF THE SEWER SYSTEM; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BOND; AND PRESCRIBING OTHER MATTERS RELATING THERETO.

BE IT ORDAINED by the City Council of the City of Elm Springs, Arkansas that:

Section 1. Certain terms used herein are defined in the bond form appearing in Section 5 of this Ordinance; other terms used herein shall have the following definitions:

"Accountant" means an independent certified public accountant not in the regular employ of the Issuer.

"Authorized Officers" means Jane Waters, Mayor, and Glenda Pettus, City Recorder, or successors.

"Bond" means City of Elm Springs, Arkansas Sewer Revenue Bond authorized by this Ordinance in the Principal Amount.

"Code" means the Internal Revenue Code of 1986, as amended.

"Committee" means the Elm Springs Sanitary Sewer Committee.

"Construction Fund" means a special fund created by this Ordinance and designated "2004 Sewer Construction Fund."

"Debt Service Reserve Amount" means \$116,106.

"Memorandum of Agreement" means the Memorandum of Agreement between the Issuer and the Arkansas Soil and Water Conservation Commission, No. 00299-CGO-L, dated September 30, 2003 and as now or hereafter revised.

"Operation and Maintenance Fund" means a special fund which is hereby created and designated "Sewer Operation and Maintenance Fund."

"Revenue Fund" means a special fund which is hereby created and designated "Sewer Revenue Fund."

"Sewer Depreciation Fund" means a special fund which is hereby created and designated "Sewer Depreciation Fund."

Section 2. Acquiring, constructing and equipping the Improvements as more specifically described in the report prepared by the Project Consultant are hereby approved, authorized and directed. The costs of the Improvements (excluding engineering fees which have been or will be paid from other available funds of the Issuer), costs of authorizing and issuing the Bond, capitalized interest and a debt service reserve as estimated by the Project Consultant total \$1,640,000. Such preliminary report has been examined and approved by the Committee and the City Council and a copy of which is on file in the office of the City Recorder where it may be inspected by any interested person. The accomplishment of the Improvements shall be under the control and supervision of, and all details in connection therewith shall be handled by, the Committee, and the Committee shall make all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers. The Committee shall let all construction contracts pursuant to and in accordance with existing laws and shall require such performance bonds and insurance from the contractors as, in the judgment of the Committee, will fully insure the completion of the Improvements in accordance with the plans and specifications therefor.

Section 3. (a) Under the authority of the laws of the State of Arkansas, including particularly the Acts, the issuance of the Bond is hereby authorized and the Bond is ordered issued for the purpose of accomplishing the Improvements, funding the Debt Service Reserve, paying interest on the Bond during construction and paying necessary expenses incidental thereto and to the issuance of the Bond.

(b) The Bond shall be initially dated the date of original issuance and delivery, shall mature on the Maturity Date and shall bear interest from the Date of Issue at the Interest Rate.

(c) The Bond shall be issuable only as a fully registered Bond without coupons in one denomination and shall be numbered "R-1".

(d) The Trustee is designated to act for the Registered Owner.

(e) The Bond, upon subsequent transfer, shall be exchanged for a new Bond dated as of the Payment Date to which interest has been paid, or if it is transferred prior to a date on which any interest has been paid, it shall be dated the Date of Issue. Interest only on the Bond shall be payable on each Payment Date after the Date of Issue to and including December 1, 2006 and principal and interest on the Bond shall be payable on the Payment Dates thereafter. Payment of each installment of interest or principal and interest (except final payment) shall be made to the person in whose name the Bond is registered on the registration

books of the Issuer maintained by the Trustee, as bond registrar, at the close of business on the Record Date, irrespective of any transfer or exchange of any such Bond subsequent to such Record Date, and prior to such Payment Date, by check or draft mailed by the Trustee to such Registered Owner, at his address on such registration books. Final payment of principal of the Bond shall be payable at the principal corporate trust office of the Trustee.

(f) Only such Bond as shall have endorsed thereon a Certificate of Authentication substantially in the form set forth herein duly executed by the Trustee shall be entitled to any right or benefit hereunder. No Bond shall be valid and obligatory for any purpose unless and until such Certificate of Authentication shall have been duly executed by the Trustee, and such certificate of the Trustee upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered hereunder.

(g) In case the Bond shall become mutilated or be destroyed or lost, the Issuer shall cause to be executed and the Trustee may authenticate and deliver a new Bond of like date, number, maturity and tenor in exchange and substitution for and upon cancellation of such mutilated Bond, or in lieu of and in substitution for such Bond destroyed or lost, upon the Registered Owner paying the reasonable expenses and charges of the Issuer and Trustee in connection therewith, and, in the case of the Bond being destroyed or lost, his filing with the Trustee evidence satisfactory to it that the Bond was destroyed or lost, and of his ownership thereof, and furnishing the Issuer and Trustee with indemnity satisfactory to them. The Trustee is hereby authorized to authenticate any such new Bond. Upon the issuance of a new Bond under this Section, the Issuer may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

(h) The Issuer shall cause to be maintained books for the registration and for the transfer of the Bond as provided herein and in the Bond. The Trustee shall act as the bond registrar. The Bond is transferable only at the principal office of the Trustee by the Registered Owner thereof or by his attorney duly authorized in writing. Upon such transfer the ownership of the Bond shall be registered to the subsequent Registered Owner, and a new fully registered Bond of the same maturity, for the same Principal Amount, less the amount of partial redemption, if any, will be issued in exchange therefor to the subsequent Registered Owner.

(i) No charge shall be made to any Registered Owner of any Bond for the privilege of transfer, but any Registered Owner of the Bond requesting any such transfer shall pay any tax or other governmental charge required to be paid with respect thereto. Except as otherwise provided in the immediately preceding sentence,

the cost of preparing each new Bond upon each transfer and any other expenses of the Issuer or the Trustee incurred in connection therewith, shall be paid by the Issuer.

(j) The person in whose name the Bond shall be registered shall be deemed and regarded as the absolute Registered Owner thereof for all purposes, and payment of or on account of the principal or interest on the Bond shall be made only to or upon the order of the Registered Owner thereof or his legal representative, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon the Bond to the extent of the sum or sums so paid. Neither the Issuer nor the Trustee shall be affected by any notice to the contrary.

(k) When the Payment Date or date fixed for redemption of the Bond shall be a Saturday or Sunday or shall be in the State of Arkansas a legal holiday or a day on which banking institutions are authorized by law to close, then payment of principal or interest need not be made on such date but may be made the next succeeding business day with the same force and effect as if made on the Payment Date or date fixed for redemption and no interest shall accrue for the period after the Payment Date or date fixed for redemption.

(l) The Bond shall be executed on behalf of the Issuer by the manual signatures of the Authorized Officers and the seal of the Issuer shall be affixed thereto.

Section 4. The sale of the Bond to the Arkansas Soil and Water Conservation Commission pursuant to the Memorandum of Agreement for the purchase price of par, is hereby authorized subject to the Interest Rate, Maturity Date and other terms and provisions set forth in detail herein. The Memorandum of Agreement, in substantially the form submitted to this meeting, is hereby approved. The Mayor is hereby authorized and directed to execute and deliver the Memorandum of Agreement on behalf of the Issuer and to take all action required on the part of the Issuer to fulfill its obligations under the Memorandum of Agreement. The Mayor is further authorized and directed to execute and deliver any necessary revision to the Memorandum of Agreement on behalf of the Issuer in order to modify any provisions thereof to conform to the terms of this Ordinance.

Section 5. The Bond and the Trustee's Certificate of Authentication shall be in substantially the following form and the Authorized Officers are hereby expressly authorized and directed to make all recitals on behalf of the Issuer contained therein:

(Form of Bond)

REGISTERED

REGISTERED

No. R-1

\$1,640,000

UNITED STATES OF AMERICA
STATE OF ARKANSAS
COUNTY OF WASHINGTON
CITY OF ELM SPRINGS
SEWER REVENUE BOND

As used in this Bond the following terms shall have the following definitions:

"Act" or "Acts" whether one or more means Title 14, Chapter 235, Subchapter 2, Title 14, Chapter 164, Subchapter 4, and Title 19, Chapter 9, Subchapter 6, of the Arkansas Code of 1987 Annotated.

"Bond Fund" means a special fund which has been created by the Issuer's Authorizing Action and is designated "2004 Sewer Revenue Bond Fund."

"Date of Issue" means the date this Bond is issued and delivered to the original purchaser, which is _____, 2004.

"Dated Date" means the Date of Issue or, if this Bond is exchanged and registered to a subsequent Registered Owner, the Payment Date immediately prior to such exchange or registration.

"Improvements" means a new sewer collection and treatment system, generally described as follows: installation of pressurized collection lines and recirculating wastewater treatment with subterranean irrigating distribution.

"Interest Rate" means 5.40%.

"Issuer" means City of Elm Springs, Arkansas.

"Issuer's Authorizing Action" means City of Elm Springs, Arkansas Ordinance No. _____ duly adopted and approved by the Issuer on _____, 2004.

"Maturity Date" means December 1, 2033.

"Payment Date" means each June 1 and December 1 after the Issue Date.

"Payment Schedule" means \$ of interest only on Date thereafter to and including December 1, 2006 and, thereafter, equal semi-annual installments of principal and interest in the amount of \$58,053 on each Payment Date to and including June 1, 2033, with \$58,014.17 of principal and interest due on the Maturity Date.

"Principal Amount" means \$1,640,000.

"Project Consultant" means Mathis, Carter & Associates, Inc.

"Record Date" means the 15th day of the month (whether or not a business day) next preceding each Payment Date.

"Redemption Schedule" means the following schedule for optionally redeeming this Bond on the Redemption Dates at the Redemption Price (expressed as percentages of the Principal Amount) set forth in the following schedule, together with accrued interest to the Redemption Date:

<u>Redemption Dates</u> <u>(Dates Inclusive)</u>	<u>Redemption Price</u>
Prior to December 1, 2013	No Redemption
December 1, 2013 and thereafter	Par

"System" means the sewer system of the Issuer and all extensions, betterments and improvements thereof and thereto.

"Trustee" means Regions Bank, Little Rock, Arkansas.

KNOW ALL MEN BY THESE PRESENTS:

That the Issuer, for value received, hereby promises to pay, by check or draft, to the order of Arkansas Soil and Water Conservation Commission or registered assigns (collectively, the "Registered Owner"), at the principal office of the Trustee, the Principal Amount with interest thereon, at the Interest Rate per annum shown above, in such coin or currency from the Dated Date hereof, payable as provided in the Payment Schedule until payment in full of such Principal Amount or, if this Bond or a portion hereof shall be duly called for redemption, until the date fixed for redemption, and to pay interest on overdue principal and interest (to the extent allowed by law) at the rate borne by this Bond. Payments shall be first applied to accrued interest and the balance thereof shall be applied to principal. Payment shall be made to the person in whose name this Bond is registered on the registration books of the Issuer maintained by the Trustee at the close of business on the Record Date, irrespective of any transfer or exchange of this Bond, subsequent to the Record Date and prior to such Payment Date.

This Bond is issued for the purpose of financing and paying all or a portion of the costs of the acquisition, construction and equipping of Improvements, funding a debt service reserve, paying interest during construction and paying necessary expenses incidental thereto and to the issuance of this Bond.

This Bond is issued pursuant to and in full compliance with provisions of the Constitution and laws of the State of Arkansas, including particularly the Acts, and pursuant to the Issuer's Authorizing Action, and does not constitute an indebtedness of the Issuer within any constitutional or statutory limitation.

This Bond is not a general obligation of the Issuer, but is a special obligation of the Issuer payable solely from receipts received from the operation of the System (the "Revenues"). This Bond is secured by a first and prior pledge by the Issuer of the Revenues pursuant to the provisions of the Acts in favor of the Registered Owner of this Bond.

An amount of Revenues sufficient to pay the principal of and interest on this Bond has been duly pledged and set aside as a special fund for that purpose, and will be deposited from time to time into the Bond Fund created pursuant to the Issuer's Authorizing Action, under which this Bond is authorized to be issued. Reference is hereby made to the Issuer's Authorizing Action for a detailed statement of the terms and conditions upon which this Bond is issued, of the terms and conditions for the issuance of additional bonds, of the nature and extent of the security for this Bond, and of the rights and obligations of the Issuer, the Trustee and the Registered Owner.

This Bond is subject to mandatory redemption at par from bond proceeds not used to pay the cost of the Improvements or interest during construction or to establish the debt service reserve on the first Payment Date following the date of the Project Consultant's completion certificate, and to redemption at the option of the Issuer, pursuant to the Redemption Schedule. Notice of redemption identifying portions of this Bond to be redeemed shall be given by the Trustee, not less than 15 days prior to the date fixed for redemption, by mailing a copy of the redemption notice by first class mail, postage prepaid, to the Registered Owner. In the event of partial redemption, prepayments shall be applied in inverse order of maturity, the length of the Payment Schedule shall be reduced accordingly and the amount due on each Payment Date shall not be reduced.

The Issuer has fixed and has covenanted and agreed to maintain rates for the services of the System which shall be sufficient at all times to provide for the proper and reasonable expenses of operation and maintenance of the System and for the payment of the principal of and interest on this Bond, including Trustee's fees, if any, as the same become due and payable, to maintain any

required debt service reserves and to make the required deposits for the depreciation of the System.

This Bond is transferable by the Registered Owner hereof only as provided in the Issuer's Authorizing Action. The Issuer and the Trustee may deem and treat the Registered Owner as the absolute owner hereof for the purpose of receiving payment of principal and interest due hereon and for all other purposes, and neither the Issuer nor the Trustee shall be affected by any notice to the contrary.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Issuer's Authorizing Action until it shall have been authenticated by execution of the Certificate of Authentication hereon duly signed by the Trustee. This Bond is issued with the intent that the laws of the State of Arkansas shall govern its construction.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed under the Constitution and laws of the State of Arkansas, precedent to and in the issuance of this Bond have existed, have happened and have been performed in due time, form and manner as required by law; that the indebtedness represented by this Bond does not exceed any constitutional or statutory limitation; and that the Revenues have been pledged in accordance with the Acts sufficient to pay this Bond and interest hereon until this Bond and interest hereon have been fully paid and discharged.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be executed by the undersigned Authorized Officers and its corporate seal to be affixed hereto, all as of the Dated Date shown above.

CITY OF ELM SPRINGS, ARKANSAS

ATTEST:

BY: _____ Mayor

City Recorder

(SEAL)

(Form of Trustee's Certificate)

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This Bond is issued under the provisions of the within mentioned Issuer's Authorizing Action.

REGIONS BANK
Little Rock, Arkansas
TRUSTEE

By: _____
Authorized Signature

(Form of Assignment)
A S S I G N M E N T

FOR VALUE RECEIVED,
("Transferor"), hereby sells, assigns and transfers unto
all rights thereunder, and hereby irrevocably constitutes and
appoints _____, the within Bond and
the within Bond on the books kept for registration thereof with
full power of substitution in the premises.
as attorney to transfer

DATE: _____

GUARANTEED BY: _____
Transferor

NOTICE: Signature(s) must be guaranteed by a member of or participant in the Securities Transfer Agents Medallion Program (STAMP), or in another signature guaranty program recognized by the Trustee.

Section 6. Principal of and interest on the Bond shall be payable according to the Payment Schedule.

Section 7. (a) The rates charged for services of the System heretofore fixed by Ordinance No. 2004-02 of the City and the conditions, rights and obligations pertaining thereto, as set out in such Ordinance, are ratified, confirmed and continued.

(b) The Issuer hereby expressly pledges, mortgages and appropriates to the Trustee all of the receipts received from the operation of the System (the "Revenues") to secure the payment of

the principal of and interest on the Bond when due at maturity or at redemption prior to maturity, the payment of the fees and charges of the Trustee, and as security for the performance of all other obligations of the Issuer hereunder; and the Bond is hereby secured by the lien of such pledge; and the Revenues shall be used for no other purpose than to pay the principal of and interest on the Bond and Trustee's fees, except as otherwise specifically provided herein. The Bond and interest thereon shall not constitute an indebtedness of the Issuer within any constitutional or statutory limitation. The Bond is not a general obligation of the Issuer but is a special obligation of the Issuer payable solely from Revenues. Nothing herein shall be construed as requiring the Issuer to use any funds or revenues from any sources other than the Revenues for the payment of the Bond, but nothing herein shall be construed as prohibiting the Issuer from doing so.

(c) The Issuer, and the officers and employees of the Issuer, shall execute, perform and carry out the terms of this pledge in strict conformity with the provisions of this Ordinance.

(d) The pledge of the Revenues is a first and prior pledge.

Section 8. All Revenues shall be paid as and when received into the Revenue Fund. All moneys at any time in the Revenue Fund hereby established shall be applied to the payment of the reasonable and necessary expenses of operation, maintenance and repair of the System, to the payment of the principal of and interest on the Bond and bonds subsequently issued and secured by Revenues (collectively, "System Bonds"), to the maintenance of any required debt service reserves at the required levels, to the maintenance of the Sewer Depreciation Fund in the required amount, to the payment of the Trustee's fees and otherwise as described herein.

Section 9. There shall be paid from the Revenue Fund into the Operation and Maintenance Fund on or before the first business day of each month, an amount sufficient to pay the reasonable and necessary monthly expenses of operation, repair and maintenance of the System for such month and from which disbursements shall be made only for those purposes. Fixed annual charges such as insurance premiums and the cost of major repair and maintenance expenses may be computed and set up on an annual basis, and one-twelfth (1/12) of the amount thereof may be paid into the Operation and Maintenance Fund each month.

If in any month for any reason there shall be a failure to transfer and pay the required amount into Operation and Maintenance Fund, the amount of any deficiency shall be added to the amount otherwise required to be transferred and paid into such fund in the next succeeding month. If in any fiscal year a surplus shall be accumulated in the Operation and Maintenance Fund over and above

the amount which shall be necessary to defray the reasonable and necessary cost of operation, repair and maintenance of the System during the remainder of the then current fiscal year and the next ensuing fiscal year, such surplus may be transferred and deposited in the Revenue Fund.

Section 10. (a) The Bond Fund is hereby established and created as a trust fund with the Trustee. There is also hereby established a separate trust account in the Bond Fund which is designated "Debt Service Reserve Account" (the "Debt Service Reserve"). Moneys in the Bond Fund shall be used in the following order of priority as and when necessary solely for the following purposes:

- (1) to pay the Trustee's fees and expenses;
- (2) to pay principal and interest on the Bond; and
- (3) to fund and maintain the Debt Service Reserve.

(b) After making the required monthly deposit into the Operation and Maintenance Fund there shall be paid from the Revenue Fund into the Bond Fund on or before the first business day of each month until the Bond with interest thereon has been paid in full, or provision made for such payment, a sum equal to (A) 1/6 of the installment of principal and interest coming due during the then next six months on the Bond and (B) an amount sufficient to provide for Trustee's fees; provided, however, that monthly payments through November 2006 shall be in an amount equal to 1/6 of the interest on the Bond next due except for monthly payments before the first Payment Date which shall be in approximately equal amounts that are collectively sufficient to make the interest payment on such Payment Date. Credit shall be given on the monthly payments into the Bond Fund for any amounts of investment earnings thereon so long as the Debt Service Reserve Amount is being maintained. Notwithstanding the above, the Trustee shall transfer from the Construction Fund amounts sufficient to make the deposits into the Bond Fund until there are moneys in the Revenue Fund available therefor.

(c) If the Revenues are insufficient to make the required payment on the first business day of the month into the Bond Fund, the amount of any such deficiency in the payment made shall be added to the amount otherwise required to be paid into the Bond Fund on the first business day of the next month.

(d) The Debt Service Reserve shall be used solely and for no other purpose than the payment of the principal of and interest on the Bond in the event there are insufficient moneys in the Bond Fund and the Construction Fund on any Payment Date for that purpose. The Debt Service Reserve shall be maintained in an amount equal to the Debt Service Reserve Amount which shall be funded with Bond proceeds on the Date of Issuance. If for any reason there shall be a deficiency in the Bond Fund and the

Construction Fund so that there is unavailable sufficient money therein to pay the principal of and interest on the Bond as same become due, any sums then held in the Debt Service Reserve shall be used to the extent necessary to pay such principal of and interest on the Bond, but if a payment is made for said purpose out of the Debt Service Reserve it shall be reimbursed from the first available funds in the Revenue Fund before any of the moneys in the Revenue Fund shall be used for any other purpose except making the payments hereinabove required to be made into the Bond Fund and the Operation and Maintenance Fund.

(e) When the moneys held in the Bond Fund shall be and remain sufficient to pay the principal of and interest on the Bond then outstanding and Trustee's fees in connection therewith, there shall be no obligation to make further payments into the Bond Fund. Any amount in the Debt Service Reserve in excess of the Debt Service Reserve Amount shall be credited against the next monthly Bond Fund payment.

(f) If a surplus shall exist in the Bond Fund over and above the Debt Service Reserve Amount plus the amount required for making all principal and interest payments during the succeeding 12 months on the Bond, with Trustee's fees, such surplus may be applied to the payment of the principal of the Bond to the extent that it may be called for redemption prior to maturity. All moneys deposited in the Bond Fund (excluding the Debt Service Reserve) shall be expended within a 13 month period beginning on the date of deposit, and any amount received from investment of money held in the Bond Fund (excluding the Debt Service Reserve) shall be expended within one year from the date of receipt and in any event all money in the Bond Fund (excluding the Debt Service Reserve) in excess of a carryover amount not to exceed the greater of (A) one year's earnings on the Bond Fund (excluding the Debt Service Reserve), or (B) 1/12 of the annual debt service on the Bond, shall be depleted at least once a year as provided in this Section or by transfer to the Revenue Fund.

(g) In addition to other security pledged herein, the Bond shall be specifically secured by a pledge of all moneys and Revenues required to be placed into the Bond Fund. The pledge in favor of the Bond is hereby irrevocably made according to the terms hereof, and the Issuer and its officers and employees shall execute, perform and carry out the terms thereof in strict conformity with the provisions hereof.

(h) When the Bond shall have been paid in full within the meaning hereof, the Trustee shall take all appropriate action to cause (i) the pledge and lien hereof to be discharged and canceled, and (ii) all moneys held by it pursuant hereto and which are not required for the payment of the Bond and Trustee's fees to be paid over or delivered to or at the direction of the Issuer.

Section 11. After making the required payments into the Operation and Maintenance Fund and the Bond Fund, there shall be paid from the Revenue Fund into the Sewer Depreciation Fund hereby created, on or before the fifth day of each month, 3% of the gross Revenues of the System for the preceding month. The moneys in the Sewer Depreciation Fund shall be used for the purpose of paying the cost of maintenance or repairs, renewals or replacements, the cost of acquiring, installing or repairing equipment, the cost of enlarging, extending, reconstructing or improving the System or any part thereof, engineering expenses related to the foregoing, the cost of acquiring any lands, rights in land, easements or franchises deemed by the Issuer to be necessary or useful in connection with the ownership or operation of the System, or premiums on insurance carried under the provisions hereof; provided, however, in the event that no other funds are available therefor, the moneys in the Sewer Depreciation Fund may be used to the extent necessary to prevent a default in the payment of the principal of and interest on the Bond as it matures.

Section 12. Any surplus in the Revenue Fund after making all disbursements for the operation and maintenance of the System and providing for all funds described above may be used, at the option of the Issuer, for the redemption of the Bond and other System Bonds prior to maturity in accordance with their respective redemption provisions; for extensions, betterments and improvements to the System; or for any other lawful governmental purpose authorized by the Issuer.

Section 13. (a) When the Bond has been executed and sealed by the Authorized Officers, it shall be delivered to the Trustee, which shall authenticate it and deliver it to the Arkansas Soil and Water Conservation Commission upon payment of par ("total sale proceeds"). The sum of \$116,106 shall be deposited into the Debt Service Reserve. The sum of \$49,200 shall be paid to the Arkansas Soil and Water Conservation Commission as a servicing fee. The balance of the total sale proceeds shall be deposited in the Construction Fund, which is hereby created with the Trustee.

(b) The moneys in the Construction Fund shall be used for accomplishing the Improvements (excluding engineering services), paying expenses incidental thereto, paying capitalized interest and paying expenses of issuing the Bond, with any unexpended balance to be deposited in the Bond Fund. Disbursements to pay interest on the Bond shall be made by the Trustee without further authorization by the Issuer if the Revenues have not been deposited into the Bond Fund for such purpose. All other disbursements shall be made from the Construction Fund on the basis of consecutively numbered written requisitions which shall specify: the name of the person, firm or corporation to whom payment is to be made; the amount of the payment; the purpose of the payment; and that the payment is a proper charge on the Construction Fund. If any such payment is a reimbursement to the Issuer for funds

expended prior to the Date of Issue, the Issuer shall certify that it has complied with the United States Treasury Regulation No. 1.150-2. Each requisition must be signed by an agent of the Registered Owner, an Authorized Officer and, in case of work over which the Project Consultant shall exercise supervision, an agent of the Project Consultant, and the check drawn upon the Construction Fund shall be payable to the person, firm or corporation designated in the requisition. The Trustee shall be required to keep records of all requisitions reflecting all payments made from the Construction Fund.

(c) When the Improvements have been completed and all required expenses paid and expenditures made from the Construction Fund for and in connection with the accomplishment of the Improvements and the financing thereof, this fact shall be evidenced by a certificate signed by an Authorized Officer and an agent of the Project Consultant which certificate shall state, among other things, the date of the completion and that all obligations payable from the Construction Fund have been discharged (the "Completion Certificate"). A copy of the Completion Certificate shall be filed with the Trustee and upon receipt thereof the Trustee shall transfer any remaining balance to the Bond Fund.

Section 14. (a) Moneys held for the credit of the Revenue Fund, the Operation and Maintenance Fund, the Bond Fund (excluding the Debt Service Reserve), the Sewer Depreciation Fund and the Construction Fund shall be invested and reinvested pursuant to the direction of the Issuer, and, in the case of the Bond Fund and the Construction Fund, in the Trustee's discretion in the absence of any direct instructions from the Issuer, in Government Securities (which for purposes hereof are hereby defined to mean direct or fully guaranteed obligations of the United States of America), in certificates of deposit of banks, including the Trustee, which are insured by the Federal Deposit Insurance Corporation ("FDIC"), or, if in excess of the insured amount, are collateralized by Government Securities or other securities authorized by Arkansas law to secure public funds (collectively, "Collateral Securities"), or in other investments as may, from time to time, be permitted by law and approved by the Registered Owner, which shall mature, or which investments shall be subject to redemption by the holder thereof, at the option of such holder, not later than the date or dates when such money will be required for the purposes intended.

(b) Moneys held for the credit of the Debt Service Reserve shall be invested and reinvested in the Trustee's discretion in Government Securities, or in certificates of deposit of banks including the Trustee, which are insured by FDIC, or, if in excess of the insured amount, are collateralized by Collateral Securities, which shall mature, or which shall be subject to redemption at the option of the holder thereof, not later than ten (10) years after the date of investment.

(c) Obligations so purchased as an investment of moneys in any fund shall be deemed at all times to be a part of such fund and the interest accruing thereon and any profit realized from such investments shall be credited to such fund, and any loss resulting from such investment shall be charged to such fund.

(d) Moneys so invested in Government Securities or certificates of deposit of banks to the extent insured by FDIC need not be secured by the depository bank or banks. Except as set forth in the preceding sentence, all deposits of Revenues shall be collateralized by the pledge of Collateral Securities in such a manner as to be perfected against the claims of innocent creditors under the Financial Institution Reform, Recovery and Enforcement Act of 1989 and the Arkansas Uniform Commercial Code.

(e) In determining the value of the Bond Fund, the Trustee shall credit investments at the market value thereof, as determined by the Trustee by any method selected by the Trustee in its reasonable discretion. No less frequently than annually, and in any event on December 31 each year, the Trustee shall determine the value of each such fund and shall report such determination to the Issuer and the Registered Owner. The Trustee shall sell or present for redemption any investments as necessary to provide money for the purpose of making any payment required hereunder. To the extent that any loss or reduction in value reduces the value of any such fund to a level lower than the level required hereunder, such loss or reduction shall be made up in each fund in the priority established herein for payments from the Revenue Fund. The Trustee shall not be liable for any loss resulting from any such sale.

Section 15. (a) The Bond shall be subject to redemption prior to maturity in accordance with the terms set out in the bond form herein. The Issuer hereby covenants to use moneys in the Construction Fund not necessary for the purposes intended to redeem the Bond at par on the first Payment Date following the date of the Completion Certificate.

(b) The Bond shall be deemed paid when (1) there has been deposited with the Trustee an amount sufficient to pay the principal or redemption price of and interest on the Bond to the Maturity Date or redemption, plus all fees of the Trustee, or (2) there has been deposited with the Trustee, Government Securities that mature according to their terms and are non-callable or redeemable at the option of the holder thereof on or prior to the Maturity Date or redemption of the Bond and the principal or redemption price of and interest on which, together with any moneys on deposit with the Trustee, will provide an amount sufficient to pay in full the principal or redemption price of and interest on the Bond when due plus the fees of the Trustee; provided that such deposit will not affect the tax exempt status of the interest on the Bond or cause the Bond to be classified as an arbitrage bond

within the meaning of Section 148 of the Code, and provided further, that if the Bond is to be redeemed prior to the maturity thereof, notice of such redemption shall have been duly given as provided in the Bond Form. If the Bond is called for redemption and funds are duly provided in accordance with this Ordinance prior to the date fixed for redemption, the Bond will cease to bear interest on such redemption date. Prepayment of less than all outstanding principal shall be applied in inverse order of maturity.

(c) In determining the sufficiency of the deposit there shall be considered the principal amount of such Government Securities and interest to be earned thereon until the maturity of such Government Securities.

(d) On the payment in full of the Bond within the meaning hereof, the Trustee shall hold in trust, for the benefit of the Registered Owner, all such moneys and/or Government Securities.

(e) The Bond paid either at or before maturity shall be cancelled and shall not be reissued.

Section 16. So long as the Bond is outstanding, it is hereby covenanted and agreed by the Issuer with the Registered Owner that:

(a) The Issuer covenants and agrees that the rates charged for services of the System hereby fixed and established are not less than the minimum necessary to produce and will hereafter produce, and shall be maintained in amounts necessary to produce, total Revenues at all times at least sufficient to: pay operation and maintenance expenses of the System; pay the principal of and interest on outstanding System Bonds as the same become due; maintain any required debt service reserves in the required amounts; pay the Trustee's fees; and make the required deposits into the Sewer Depreciation Fund. The Issuer further covenants that the rates shall never be reduced while the Bond is outstanding unless (1) there is obtained from an Accountant a certificate that the net revenues of the System that will be derived from the proposed new rates, based upon the previous twelve months of consumption, will be sufficient in amount for making the required deposit into the Sewer Depreciation Fund, and for maintenance of any required debt service reserves in the required amounts, and leave a balance equal to at least 120% of the average annual principal and interest requirements on all outstanding System Bonds and (2) the Issuer is not in default hereunder. The Issuer further covenants and agrees that the rates shall be maintained in such manner as will provide net revenues at least sufficient to provide the required deposits into the Sewer Depreciation Fund, and to leave a balance amount equal to not less than 120% of the average annual principal and interest requirements for all System Bonds outstanding. The term "net revenues" as used in this Section, means all Revenues, less the expenses of operation and maintenance

of the System, including all expense items properly attributable to the operation and maintenance of the System determined in accordance with generally accepted accounting principles applicable to government owned facilities similar to the System, excluding depreciation and debt service expenses.

(b) The Issuer covenants and agrees that it will diligently collect the Revenues and continuously operate the System as a revenue producing undertaking.

(c) The Issuer covenants that so long as the Bond is outstanding, that it will not mortgage, pledge or otherwise encumber the System, or any part thereof or any Revenues, except as herein specifically provided, and will not sell, lease or otherwise dispose of any substantial portion of the same. Nothing herein shall be construed to prohibit the Issuer from disposing of worn out or obsolete System properties or from disposing of properties not being used and not useful in the operation of the System, provided that all receipts derived from the disposition of such properties shall be deposited in the Revenue Fund.

(d) The Issuer covenants and agrees that it will duly observe and comply with all valid requirements of any governmental authority relative to the System, that it will not create or suffer to be created any lien or charge upon the System or any part thereof or upon the Revenues, except in accordance with the provision hereof, and that, from such Revenues, it will pay or cause to be discharged, or will make adequate provision to satisfy and discharge, within 60 days after the same shall accrue, all lawful claims and demands for labor, materials, supplies or other objects which, if unpaid, might by law become a lien upon the System or any part thereof or upon the Revenues therefrom; provided, however that nothing in this Section contained shall require the Issuer to pay or cause to be discharged, or make provision for, any such lien or charge so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings.

(e) To the extent comparable protection is not otherwise provided to the satisfaction of the Trustee, the Issuer covenants and agrees that it will keep the System facilities insured against loss or damage, and maintain public liability and property damage insurance against claims for bodily injury or death and damage to property occurring upon, in or about the System facilities, in each case in an amount and against such risks as are usually insured against in connection with similar facilities and undertakings as the System. The Issuer further covenants, to the extent comparable protection is not otherwise provided to the satisfaction of the Trustee, that it will maintain adequate facility insurance or bonds on all officers or employees responsible for handling funds of the System. All insurance required by this subsection shall be effected with reputable insurance companies selected by the Issuer,

which usually insure risks similar in nature and monetary exposure. Policies of insurance provided for herein shall name the Trustee as a beneficiary to the extent of its interest hereunder. Copies of certificates of the insurance provided for herein, or summaries thereof, shall be placed on file with the Trustee.

(f) The Issuer covenants and agrees that it will not issue any bond, or incur any obligation, either (i) secured by a prior lien on or pledge of the Revenues or (ii) on a parity of security with the Bond, except the Issuer reserves the right to issue additional bonds to finance or pay the cost of constructing any future extensions, betterments or improvements to the System or to refund System Bonds, but the Issuer shall not authorize or issue any such additional bonds ranking on a parity with the Bond unless and until there has been procured and filed with the Issuer and the Trustee a statement by an Accountant reciting the opinion, based upon necessary investigation, that the net revenues of the System for the fiscal year immediately preceding the fiscal year in which it is proposed to issue such additional bonds shall equal not less than 120% of the maximum annual principal and interest requirements on all the then outstanding System Bonds and the additional bonds then proposed to be issued. For the purposes of the computation required by this Section, if, prior to the issuance of the additional bonds and subsequent to the first day of such preceding fiscal year, the Issuer shall have increased its rates or charges imposed for services of the System, there may be added to the net revenues of such fiscal year the additional net revenues which would have been received from the operation of the System during such fiscal year had such increase been in effect throughout such fiscal year, as reflected by a certificate of a duly qualified consulting engineer not in the regular employ of the Issuer.

(g) The Issuer covenants and agrees that it will faithfully and punctually perform all duties with reference to the Revenues and the Bond, and apply the Revenues as required herein and by the Constitution and laws of the State of Arkansas.

(h) The Issuer covenants and agrees that it will forthwith proceed to construct the Improvements for which the Bond shall be issued in accordance with plans and specifications which shall have been approved by the Project Consultant, and in conformity with law and all requirements of all governmental authorities having jurisdiction thereof, and that it will expeditiously complete such construction.

Section 17. The Issuer shall cause proper books of accounts and records to be kept (separate from all other accounts and records) in which complete and correct entries shall be made of all transactions relating to the operation of the System, and such books shall be available for inspection by the Registered Owner at reasonable times and under reasonable circumstances. After the System is operational, the Issuer agrees (a) to provide the Trustee

and Registered Owner with an annual financial statement for the System no later than 60 days after the end of the year and (b) to have the System records audited by an Accountant at least once each year, and a copy of the audit shall be delivered to the Trustee and the Registered Owner no later than 120 days after the end of the year. In the event the Issuer fails or refuses to make the report, the Trustee or the Registered Owner may have the audit made, and the cost thereof shall be charged against the Operation and Maintenance Fund.

Section 18. All Revenues received by the City Treasurer or any agent of the Issuer shall be deposited in such depository or depositories for the Issuer as may be lawfully designated by Issuer from time to time; subject, however, to the giving of security as now or as hereafter may be required by law, and provided that such depositories are members of FDIC. The officer having custody of the Issuer's other funds shall be custodian of the Revenues. Payments from the respective funds shall be made by checks or vouchers, signed by the person or persons designated by the City Council, and drawn on the depository. Any agent receiving System funds shall give bond in at least the amount of total funds in his custody at any one time. Each such check or voucher shall briefly specify the purpose of the expenditure.

Section 19. (a) If there be any default in the payment of the principal of and interest on the Bond, or if the Issuer defaults in the performance of any covenant contained herein, the Trustee or the Registered Owner may, by proper suit compel the performance of the duties of the officials of the Issuer hereunder and under the Constitution and laws of the State of Arkansas, and may take any action or obtain any proper relief in law or equity available under the Constitution and laws of the State of Arkansas, including any action for the appointment of a receiver to administer the System on behalf of the Issuer and the Registered Owner with power to charge and collect (or by mandatory injunction or otherwise to cause to be charged and collected) rates sufficient to provide for the payment of the expenses of operation, maintenance and repair of the System and to pay the Bond and interest outstanding and to apply the Revenues in conformity herewith and with the laws of Arkansas. When all defaults in principal and interest payments have been cured, the custody and operation of the System shall revert to the Issuer.

(b) No remedy herein conferred upon or reserved to the Trustee or to the Registered Owner is intended to be exclusive of any other remedy or remedies herein provided, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or given by any law or by the Constitution of the State of Arkansas.

(c) No delay or omission of the Trustee or of the Registered Owner to exercise any right or power accrued upon any

default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein, and every power and remedy given hereby to the Trustee and to the Registered Owner, respectively, may be exercised from time to time and as often as may be deemed expedient.

(d) The Trustee may, and upon the written request of the Registered Owner shall, waive any default which shall have been remedied before the entry of final judgment or decree in any suit, action or proceeding instituted under the provisions hereof or before the completion of the enforcement of any other remedy, but no such waiver shall extend to or affect any other existing or any subsequent default or defaults or impair any rights or remedies consequent thereon.

(e) Any costs of enforcement of the obligations of the Issuer hereunder, including reasonable attorney's fees, shall be paid by the Issuer and shall constitute obligations of the Issuer hereunder.

Section 20. In the event this body, the Committee or the office of the Authorized Officers shall be abolished or any offices shall be merged or consolidated or in the event the duties of a particular office shall be transferred to another officer or officers, or in the event of a vacancy in any such office by reason of death, resignation, removal from office or otherwise, or in the event any such officer shall become incapable of performing the duties of his office by reason of sickness, absence from the Issuer or otherwise, all powers conferred and all obligations and duties imposed upon such officer or officer shall be performed by the office or officers succeeding to the principal functions thereof, or by the officer or officer upon whom such powers, obligations and duties shall be imposed by law.

So long as the System is under the control of the Committee, performance by the Committee of any obligation of the City hereunder shall be deemed performance by the City. The Committee presently consists of Jim Crownover, Glen Canup, Coy Patton, Robert Hukill and Linda Warmack.

Section 21. The Trustee shall be responsible for the exercise of good faith and ordinary prudence in the execution of its respective trusts. The recitals herein and in the face of the Bond are the recitals of the Issuer and not of the Trustee. The Trustee shall not be required to take any action as Trustee unless it shall have been requested to do so in writing by the Registered Owner and shall have been offered reasonable security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby. The Trustee may resign at any time by 30 days' notice in writing to the Authorized Officers and the Registered Owner, and the Registered Owner at any time, with or without cause, may remove the Trustee. In the event of a vacancy in the office of Trustee,

either by resignation or by removal, the Registered Owner may appoint a new Trustee, such appointment to be evidenced by a written instrument or instruments filed with the Authorized Officers. If the Registered Owner shall fail to fill a vacancy after the same shall occur, then the Issuer shall forthwith designate a new Trustee by a written instrument filed in the office of the Issuer. The Trustee and any successor Trustee shall file a written acceptance and agreement to execute the trusts imposed upon it hereby, but only upon the terms and conditions set forth herein and subject to the provisions hereof, to all of which the Registered Owner, by accepting delivery of the Bond, agrees. Such written acceptance shall be filed with the Authorized Officers. Any successor Trustee shall have all the powers herein granted to the original Trustee.

Section 22. (a) The terms hereof shall constitute a contract between the Issuer and the Registered Owner and no variation or change in the undertaking herein set forth shall be made while the Bond is outstanding, except as hereinafter set forth in subsection (b), and the Registered Owner may at any time for and on his own behalf enforce the obligations of the Issuer by a proper suit for that purpose.

(b) The Trustee may from time to time, and at any time consent to any amendment, change or modification hereof or the adoption of any supplement hereto for the purpose of curing or the ambiguity or formal defect or omission, or implementing any of the provisions hereof, provided, however, that the Trustee shall not consent to any other amendment, change or modification hereof or to the adoption of any supplement hereto without the approval or consent of the Registered Owner, and provided further, that nothing herein contained shall permit or be construed as permitting (1) an extension of the maturity of the principal of or the interest on any Bond issued hereunder, or (2) a reduction in the principal amount of the Bond or the rate of interest thereon, or (3) the creation of a pledge of Revenues superior to the pledge created hereby.

Section 23. (a) The Issuer covenants with the Registered Owner, who otherwise might qualify by law to treat interest on the Bond as tax-exempt, that it shall not take any action or suffer or permit any action to be taken or condition to exist which causes or may cause the interest payable on the Bond to be subject to federal income taxation pursuant to existing laws at the time of issuance; and it shall at all times do and perform all acts and things permitted by law and necessary or desirable in order to assure that interest payable on the Bond shall be exempt from federal income taxation pursuant to existing laws at the time of issuance. Without limiting the generality of the foregoing, the Issuer covenants that the proceeds of the sale of the Bond will not be used directly or indirectly in such manner as to cause the Bond to

be treated as an "arbitrage bond" within the meaning of Section 148 of the Code.

(b) The Issuer represents and covenants that it has not used or permitted the use of, and covenants that it will not use or permit the use of the Improvements or the proceeds of the Bond, in such a manner as to cause the Bond to be a "private activity bond" within the meaning of Section 141 of the Code. In this regard, the Issuer covenants that (i) it will not use (directly or indirectly) the proceeds of the Bond to make or finance loans to any person, and (ii) that while the Bond is outstanding the Improvements will only be used by persons on a basis as members of the general public.

(c) The Issuer represents and covenants that it will take no action which would cause the Bond to be "federally guaranteed" within the meaning of Section 149(b) of the Code. Nothing in this Section prohibits investments in bonds issued by the United States Treasury.

(d) The Issuer certifies that (i) it is a governmental unit of the State of Arkansas, (ii) 95% of the net proceeds of the sale of the Bond will be used for governmental activities of the Issuer within its jurisdiction and (iii) it and its subordinate entities, if any, have not issued and will not issue during 2004 tax-exempt obligations (other than private activity bonds) having an aggregate face amount in excess of \$5,000,000.

(e) The Issuer agrees to make all filings with the Internal Revenue Service (specifically including Form 8038G) that are required from time to time to assure that the Bond is and will remain an obligation on which the interest is excluded from gross income of the holder under Section 103(a) of the Code.

(f) Neither the Issuer nor any related person (as defined in Section 147(a)(2) of the Code) shall acquire the Bond or the general obligation bond issued by the Registered Owner in order to provide loans to finance the Improvements.

(g) This Ordinance shall be considered an "official intent" within the meaning of United States Treasury Regulation No. 1.150-2.

Section 24. The provisions hereof are hereby declared to be separable and if any provision shall for any reason be held illegal or invalid, such holding shall not affect the validity of the remainder hereof.

Section 25. All actions, ordinances and resolutions or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

ADOPTED THIS DATE: March 15, 2004.

APPROVED:

By: Jane Waters
Mayor

ATTEST:
Glenda Letour
City Recorder

(SEAL)

CERTIFICATE

The undersigned hereby certifies that the foregoing pages are a true and correct copy of Ordinance No. 2004-06, adopted at a regular session of the City Council of the City of Elm Springs, Arkansas, held at the regular meeting place in said City at 6:30 o'clock p.m. on the 15 day of March, 2004, and that the Ordinance is recorded in Book No. 1, Page 204-06, now in my possession.

GIVEN under my hand and seal this 15 day of March, 2004.

Melinda Fetters
City Recorder

(SEAL)

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Linda Letten, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2004-06 (the "Senior Bond Ordinance") was, on the 18th day of March, 2004, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 18th day of March, 2004.

Jane Waters
Mayor

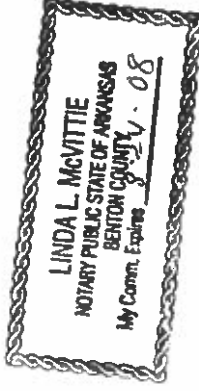
Linda Letten
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 18th Day of March, 2004.

Linda L McVittie
Notary Public

My Commission Expires: 8-24-08



ORDINANCE NO. 2004-11

AN ORDINANCE APPROVING THE PARTICIPATION BY THE CITY OF ELM SPRINGS IN THE NORTHWEST ARKANSAS CONSERVATION AUTHORITY; APPROVING THE SECOND AMENDED AGREEMENT BETWEEN THE MEMBER CITIES OF THE NORTHWEST ARKANSAS CONSERVATION AUTHORITY; APPROVING THE POWERS THEREIN CREATED; AND AUTHORIZING THE MAYOR AND CLERK TO EXECUTE AND DELIVER SAID AGREEMENT; AND DECLARING AN EMERGENCY.

WHEREAS, Title 14, Chapter 233 of the Arkansas Code as amended, permits any two or more Arkansas municipalities, any two or more counties, or any one or more Arkansas municipalities together with any one or more Arkansas counties to create, establish, and become a member of a solid waste disposal authority for the purpose of controlling, collecting, storing, removing, handling, reducing, disposing of, treating, and otherwise dealing in and concerning solid waste as that term is defined in the Joint County and Municipal Solid Waste Disposal Act, Ark. Code Ann. §§ 14-233-101 et seq. (hereinafter the "Act") and for the purposes stated in the Act; and,

WHEREAS, pursuant to Title 14, Chapter 233 of the Arkansas Code, the Cities of Rogers and Springdale, Arkansas, did enter into an agreement and thereby created and established the Northwest Arkansas Conservation Authority (herein referred to as the "Authority") pursuant to the Act and for the purposes stated in the Agreement and permitted by the Act, both as currently stated and as may from time to time be amended or supplemented; and,

WHEREAS, the Cities of Bentonville, Rogers and Springdale entered into an Amended Agreement whereby Bentonville was then considered a member of the Authority; and,

WHEREAS, pursuant to Title 14, Chapter 233 of the Arkansas Code, the Cities of Bentonville, Bethel Heights, Cave Springs, Elm Springs, Lowell, Rogers and Springdale, Arkansas, (herein referred to as the "Members") desire to amend the Agreement and hereby expand the membership of the Authority pursuant to the Act, so as to include the Cities of Bethel Heights, Cave Springs, Elm Springs and Lowell; and,

WHEREAS, the Northwest Arkansas Conservation Authority Second Amended Agreement (herein referred to as the "Second Amended Agreement") in the form attached hereto as Exhibit A is submitted to the City Council; and,

WHEREAS, pursuant to Article X of the Agreement, the obligations of the Authority, including revenue bonds issued by the Authority, shall be payable from and secured by the revenues and property of the Authority, and shall not constitute a general or limited obligation of any Member; and,

WHEREAS, pursuant to Article XI of the Agreement, all amendments or modification to the Second Amended Agreement must be in writing; and,

WHEREAS, agreeing to participate does not bind the City to any particular service and that, pursuant to the Act and the Second Amended Agreement, a Member may withdraw from participation.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SPRINGDALE, ARKANSAS;

Section 1. The City of Elm Springs has determined that it is in its best interest to become a member of the Northwest Arkansas Conservation Authority. The cities of Bentonville, Bethel Heights, Cave Springs, Elm Springs, Lowell, Rogers and Springdale are proposed to be members of the Authority under the Second Amended Agreement. The powers granted to the Authority are those contained in the Act and the Second Amended Agreement. There are no limitations on the exercise of the powers granted, except those limitations contained in the constitutions of the United States and the State of Arkansas, and the statutes of Arkansas. The Board of Directors of the Authority shall be constituted as provided in the Second Amended Agreement. The Mayor of each participating city shall appoint the person(s) to the Board of Directors as enumerated in the Second Amended Agreement, which appointment shall become effective upon approval by the City Council.


Section 2. The Second Amended Agreement and the terms and conditions thereof are hereby approved.

Section 3. The Mayor is authorized to approve and sign an amended application, to be filed with the Secretary of State, to reflect the current membership of the Authority.

Section 4. The Mayor and Clerk are hereby authorized to execute and deliver the Second Amended Agreement.

Section 5. Emergency Clause. It is hereby declared that an emergency exists, and this Ordinance being necessary for the preservation of the health, safety, and welfare of the citizens of Elm Springs, Arkansas shall be effective immediately upon its passage, approval and publication.

PASSED AND APPROVED this 18 day of October, 2004.



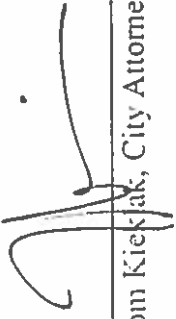
Jane Waters, Mayor

ATTEST:



Glenda Pettus, City Clerk

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read 'TK', is written over a horizontal line.

Tom Kieslak, City Attorney

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Linda Lettice, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2004-11 (the "NACA Ordinance") was, on the 21 day of October, 2004, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-0 and that the Ordinance remained posted for thirty (30) days.

DATED this 21 day of October, 2004.

Jane Waters
Mayor

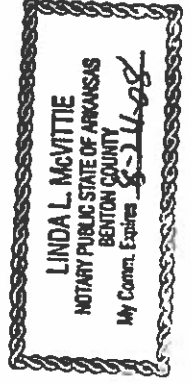
Linda Lettice
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 21 Day of October, 2004.

Linda J. McVittie
Notary Public

My Commission Expires: _____
8-24-08



ORDINANCE NO. 2004-14

CITY OF ELM SPRINGS, WASHINGTON COUNTY, ARKANSAS

AN ORDINANCE SETTING THE MAXIMUM DEPTH OF
THE PLUMBING STUB OUT, PROHIBITING "STACKING"
AND DECLARING AN EMERGENCY.

WHEREAS, it has been noted that the practice of "stacking" plumbing is occurring in new residences and,

WHEREAS, this causes the septic tank to be installed deeper, requiring excessive riser heights and expenses to the property owner and expensive and hazardous maintenance issues for the City,

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Elm Springs, as follows:

The maximum depth of sewer plumbing stub out, measured at the flow line of the pipe, shall be no more than 24 inches below finished grade. "Stacking" of the plumbing that would place the stub out below 24 inches at the flow line shall be prohibited.

EMERGENCY CLAUSE; Because the deep installation of the plumbing stub out causes unnecessary expense to the builder and expensive and hazardous maintenance issues for the City, it is hereby declared that an emergency exists and that this ordinance being necessary for the preservation of health and safety of the citizens and employees of the City of Elm Springs, Arkansas shall become effective immediately upon its passage, approval and publication.

PASSED AND APPROVED this 30 day of Dec., 2004

APPROVED

Jane Waters
Mayor Jane Waters

ATTEST

Glenda Pettus
Glenda Pettus, City Clerk/Recorder

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Glenda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 204-14 (the "Plumbing Stub Out Ordinance") was, on the 20 day of December, 2004, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 20th day of December, 2004.

Jane Waters
Mayor

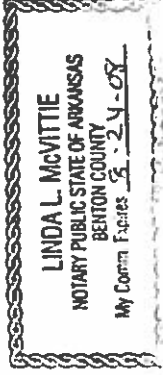
Glenda Pettus
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 20th Day of Dec, 2004.

Linda L. McVittie
Notary Public

My Commission Expires: _____
8-24-08



ORDINANCE NO. 200~~4~~⁵ 02

BE IT ENACTED BY THE CITY COUNCIL OF ELM SPRINGS, COUNTY OF WASHINGTON, STATE OF ARKANSAS

AN ORDINANCE TO BE ENTITLED:

**AN ORDINANCE ESTABLISHING A CAPACITY CHARGE FOR
NEW SERVICE INSTALLATIONS TO THE SEWER SYSTEM
FOR ADDITIONAL TREATMENT CAPACITY REQUIRED
AND DECLARING AN EMERGENCY**

WHEREAS, the addition of new services added to the STEP sewer system will require additional treatment capacity; and

WHEREAS, the Sewer Committee has determined that the cost of the additional capacity should be borne by the new service; and

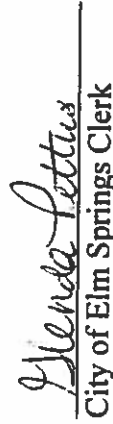
WHEREAS, the Sewer Committee has determined the average cost of the additional capacity required by a residential installation with a sewer effluent flow of 4000 gallons per month or less is \$2000.00; therefore,

BE IT RESOLVED that the City of Elm Springs, Arkansas hereby authorizes the assessment of a Capacity Charge of \$2000.00 for a residential flow of 4000 gpm or less, and that the Sewer Committee or its designated representative be authorized to compute an appropriate charge for flows exceeding 4000 gpm. Said Capacity Charge to be assessed at the time the Building Permit is issued and based on expected effluent volumes as determined by the Sewer Committee.

WHEREAS, the implementation of this Ordinance is critical to the expansion of the sewer system and to the general welfare and safety of the citizens, an emergency is declared to exist and this ordinance shall be and is effective from the date of its passage.

Passed and approved this 21 day of February, 200~~4~~⁵


Jafe Waters, Mayor


City of Elm Springs Clerk

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Glenda Peters, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2005-02 (the "Severe Capacity Check Ordinance") was, on the 24th day of February, 2005, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 24th day of February, 2005.

Jane Waters
Mayor

Glenda Peters
City Clerk

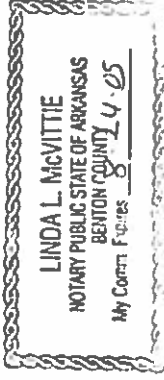
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 24th Day of Feb, 2005.

Linda L. McVittie
Notary Public

My Commission Expires:

8-24-05



ORDINANCE NO. 200505

AN ORDINANCE AMENDING ORDINANCE NO. 2004-2
FIXING RATES FOR SERVICES RENDERED BY THE
SEWER SYSTEM OF THE CITY OF ELM SPRINGS,
ARKANSAS; AND PRESCRIBING OTHER MATTERS
RELATING THERETO.

WHEREAS, the City of Elm Springs, Arkansas (the "City")
has determined that a sewer system should be constructed (the
"Sewer System") in order that the City and its inhabitants may have
adequate and proper sewer facilities; and

WHEREAS, it is necessary for the City to increase rates
to be charged for the services of the System by amending Ordinance
No. 2004-2 of the City, adopted February 16, 2004 ("Ordinance No.
2004-2");

NOW, THEREFORE, BE IT ORDAINED by the City Council of
the City of Elm Springs, Arkansas:

Section 1. Subsection (a) of Section 1 of Ordinance No.
2004-2 is hereby amended to read as follows:

"(a) Monthly Sewer Rates. All sewer charges shall be
based on water consumption and the amount to be paid by each
customer shall be computed on the basis of the following schedule
of rates:

For the first 4,000 gallons of
water consumption per month, or
portion thereof

\$45.00 (minimum)

For all monthly water consumption
in excess of 4,000 gallons per month 5.00 per 1,000 gallons"

Section 2. Ordinance No. 2004-2, as amended hereby,
shall remain in full force and effect.

Section 3. That the provisions of this Ordinance are
separable and if a section, phrase or provision shall be declared
invalid, such declaration shall not affect the validity of the
remainder of this Ordinance.

Section 4. That all ordinances and resolutions and parts
thereof in conflict herewith are hereby repealed to the extent of
such conflict.

PASSED: April 18, 2005.

APPROVED:

Jane Waters

Mayor

ATTEST:

Diana Letts

City Recorder

(SEAL)

CERTIFICATE

The undersigned, City Recorder of the City of Elm Springs, Arkansas (the "City"), hereby certifies that the foregoing pages are a true and perfect copy of Ordinance No. 2005-06, adopted at a regular session of the City Council of the City, held at the regular meeting place in the City at 6:30 o'clock p.m., on the 18th day of April, 2005, and that the Ordinance is of record in the Ordinance Record Book, now in my possession.

May, 2005. GIVEN under my hand and seal on this 25 day of

Glenda Lettow
City Recorder

(SEAL)

ORDINANCE NO. 2005-06

AN ORDINANCE AMENDING ORDINANCE NO. 2004-06 AUTHORIZING THE ISSUANCE AND SALE OF A REVENUE BOND FOR THE PURPOSE OF FINANCING ALL OR A PORTION OF THE COST OF A MUNICIPAL SEWER SYSTEM; AND PRESCRIBING OTHER MATTERS RELATING THERETO.

BE IT ORDAINED by the City Council of the City of Elm Springs, Arkansas that:

Section 1. Section 1 of Ordinance No. 2004-06 of the City of Elm Springs, Arkansas (the "City"), adopted March 15, 2004 ("Ordinance No. 2004-06") is hereby amended to read as follows:

"Section 1. Certain terms used herein are defined in the bond form appearing in Section 5 of this Ordinance; other terms used herein shall have the following definitions:

"Accountant" means an independent certified public accountant not in the regular employ of the Issuer.

"Authorized Officers" means Jane Waters, Mayor, and Glenda Pettus, City Recorder, or successors.

"Bond" means City of Elm Springs, Arkansas Sewer Revenue Bond authorized by this Ordinance in the Principal Amount.

"Code" means the Internal Revenue Code of 1986, as amended.

"Committee" means the Elm Springs Sanitary Sewer Committee.

"Construction Fund" means a special fund created by this Ordinance and designated "2005 Sewer Construction Fund."

"Memorandum of Agreement" means the Memorandum of Agreement between the Issuer and the Arkansas Soil and Water Conservation Commission, No. 00299-CGO-L, dated September 30, 2003 and as now or hereafter revised, including particularly, without limitation, Addendum No. 2, dated April 25, 2005."

"Operation and Maintenance Fund" means a special fund which is hereby created and designated "Sewer Operation and Maintenance Fund."

"Revenue Fund" means a special fund which is hereby created and designated "Sewer Revenue Fund."

"Sewer Depreciation Fund" means a special fund which is hereby created and designated "Sewer Depreciation Fund."

Section 2. Section 2 of Ordinance No. 2004-06 is hereby amended to read as follows:

Section 2. Acquiring, constructing and equipping the Improvements as more specifically described in the report prepared by the Project Consultant are hereby approved, authorized and directed. The costs of the Improvements (excluding engineering fees which have been or will be paid from other available funds of the Issuer), costs of authorizing and issuing the Bond and capitalized interest as estimated by the Project Consultant total \$1,753,000. Such preliminary report has been examined and approved by the Committee and the City Council and a copy of which is on file in the office of the City Recorder where it may be inspected by any interested person. The accomplishment of the Improvements shall be under the control and supervision of, and all details in connection therewith shall be handled by, the Committee, and the Committee shall make all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers. The Committee shall let all construction contracts pursuant to and in accordance with existing laws and shall require such performance bonds and insurance from the contractors as, in the judgment of the Committee, will fully insure the completion of the Improvements in accordance with the plans and specifications therefor."

Section 3. Subsection (a) of Section 3 of Ordinance No. 2004-06 is hereby amended to read as follows:

Section 3. (a) Under the authority of the laws of the State of Arkansas, including particularly the Acts, the issuance of the Bond is hereby authorized and the Bond is ordered issued for the purpose of accomplishing the Improvements, paying interest on the Bond during construction and paying necessary expenses incidental thereto and to the issuance of the Bond."

Section 4. Subsection (e) of Section 3 of Ordinance No. 2004-06 is hereby amended to read as follows:

"(e) The Bond, upon subsequent transfer, shall be exchanged for a new Bond dated as of the Payment Date to which interest has been paid, or if it is transferred prior to a date on which any interest has been paid, it shall be dated the Date of Issue. Interest only on the Bond shall be payable on each Payment Date after the Date of Issue to and including June 1, 2007 and principal and interest on the Bond shall be payable on the Payment Dates thereafter. Payment of each installment of interest or principal and interest (except final payment) shall be made to the person in whose name the Bond is registered on the registration books of the Issuer maintained by the Trustee, as bond registrar, at the close of business on the Record Date, irrespective of any transfer or exchange of any such Bond subsequent to such Record Date, and prior to such Payment Date, by check or draft mailed by the Trustee to such Registered Owner, at his address on such registration books. Final payment of principal of the Bond shall be payable at the principal corporate trust office of the Trustee."

Section 5. Section 5 of Ordinance No. 2004-06 is hereby amended to read as follows:

"Section 5. The Bond and the Trustee's Certificate of Authentication shall be in substantially the following form and the Authorized Officers are hereby expressly authorized and directed to make all recitals on behalf of the Issuer contained therein:

(Form of Bond)

REGISTERED

No. R-1

REGISTERED

\$1,640,000

UNITED STATES OF AMERICA
STATE OF ARKANSAS
COUNTY OF WASHINGTON
CITY OF ELM SPRINGS
SEWER REVENUE BOND

As used in this Bond the following terms shall have the following definitions:

"Act" or "Acts" whether one or more means Title 14, Chapter 164, Subchapter 4, and Title 19, Chapter 9, Subchapter 6, of the Arkansas Code of 1987 Annotated.

"Bond Fund" means a special fund which has been created by the Issuer's Authorizing Action and is designated "2005 Sewer Revenue Bond Fund."

"Date of Issue" means the date this Bond is issued and delivered to the original purchaser, which is _____, 2005.

"Dated Date" means the Date of Issue or, if this Bond is exchanged and registered to a subsequent Registered Owner, the Payment Date immediately prior to such exchange or registration.

"Improvements" means a new sewer collection and treatment system, generally described as follows: installation of pressurized collection lines and recirculating wastewater treatment with subterranean irrigating distribution.

"Interest Rate" means 5.40%.

"Issuer" means City of Elm Springs, Arkansas.

"Issuer's Authorizing Action" means City of Elm Springs, Arkansas Ordinance No. 2004-06 duly adopted and approved by the Issuer on March 15, 2004, as amended by City of Elm Springs, Arkansas Ordinance No. _____, duly adopted and approved by the Issuer on _____, 2005.

"Maturity Date" means June 1, 2037.

"Payment Date" means each June 1 and December 1 after the Issue Date.

"Payment Schedule" means \$ _____ of interest only on June 1, 2005, \$44,280 of interest only on each Payment Date thereafter to and including June 1, 2007 and, thereafter, equal semi-annual installments of principal and interest in the amount of \$55,502 on each Payment Date to and including December 1, 2036, with \$55,548 of principal and interest due on the Maturity Date.

"Principal Amount" means \$1,640,000.

"Project Consultant" means Mathis, Carter & Associates, Inc.

"Record Date" means the 15th day of the month (whether or not a business day) next preceding each Payment Date.

"Redemption Schedule" means the following schedule for optionally redeeming this Bond on the Redemption Dates at the Redemption Price (expressed as percentages of the Principal Amount) set forth in the following schedule, together with accrued interest to the Redemption Date:

<u>Redemption Dates</u> <u>(Dates Inclusive)</u>	<u>Redemption Price</u>
Prior to December 1, 2017	No Redemption
December 1, 2017 and thereafter	Par

"System" means the sewer system of the Issuer and all extensions, betterments and improvements thereof and thereto.

"Trustee" means Regions Bank, Little Rock, Arkansas.

KNOW ALL MEN BY THESE PRESENTS:

That the Issuer, for value received, hereby promises to pay, by check or draft, to the order of Arkansas Soil and Water Conservation Commission or registered assigns (collectively, the "Registered Owner"), at the principal office of the Trustee, the Principal Amount with interest thereon, at the Interest Rate per annum shown above, in such coin or currency from the Dated Date hereof, payable as provided in the Payment Schedule until payment in full of such Principal Amount or, if this Bond or a portion hereof shall be duly called for redemption, until the date fixed for redemption, and to pay interest on overdue principal and interest (to the extent allowed by law) at the rate borne by this Bond. Payments shall be first applied to accrued interest and the balance thereof shall be applied to principal. Payment shall be made to the person in whose name this Bond is registered on the registration books of the Issuer maintained by the Trustee at the close of business on the Record Date, irrespective of any transfer or exchange of this Bond, subsequent to the Record Date and prior to such Payment Date.

This Bond is issued for the purpose of financing and paying all or a portion of the costs of the acquisition, construction and equipping of Improvements, paying interest during construction and paying necessary expenses incidental thereto and to the issuance of this Bond.

This Bond is issued pursuant to and in full compliance with provisions of the Constitution and laws of the State of Arkansas, including particularly the Acts, and pursuant to the Issuer's Authorizing Action, and does not constitute an indebtedness of the Issuer within any constitutional or statutory limitation.

This Bond is not a general obligation of the Issuer, but is a special obligation of the Issuer payable solely from receipts received from the operation of the System (the "Revenues"). This Bond is secured by a first and prior pledge by the Issuer of the Revenues in favor of the Registered Owner of this Bond.

An amount of Revenues sufficient to pay the principal of and interest on this Bond has been duly pledged and set aside as a special fund for that purpose, and will be deposited from time to time into the Bond Fund created pursuant to the Issuer's Authorizing Action, under which this Bond is authorized to be issued. Reference is hereby made to the Issuer's Authorizing Action for a detailed statement of the terms and conditions upon which this Bond is issued, of the terms and conditions for the issuance of additional bonds, of the nature and extent of the security for this Bond, and of the rights and obligations of the Issuer, the Trustee and the Registered Owner.

This Bond is subject to mandatory redemption at par from bond proceeds not used to pay the cost of the Improvements or interest during construction on the first Payment Date following the date of the Project Consultant's completion certificate, and to redemption at the option of the Issuer, pursuant to the Redemption Schedule. Notice of redemption identifying portions of this Bond to be redeemed shall be given by the Trustee, not less than 15 days prior to the date fixed for redemption, by mailing a copy of the redemption notice by first class mail, postage prepaid, to the Registered Owner. In the event of partial redemption, prepayments shall be applied in inverse order of maturity, the length of the Payment Schedule shall be reduced accordingly and the amount due on each Payment Date shall not be reduced.

The Issuer has fixed and has covenanted and agreed to maintain rates for the services of the System which shall be sufficient at all times to provide for the proper and reasonable expenses of operation and maintenance of the System and for the payment of the principal of and interest on this Bond, including Trustee's fees, if any, as the same become due and payable, to maintain any required debt service reserves and to make the required deposits for the depreciation of the System.

This Bond is transferable by the Registered Owner hereof only as provided in the Issuer's Authorizing Action. The Issuer and the Trustee may deem and treat the Registered Owner as the absolute owner hereof for the purpose of receiving payment of principal and interest due hereon and for all other purposes, and neither the Issuer nor the Trustee shall be affected by any notice to the contrary.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Issuer's Authorizing Action until it shall have been authenticated by execution of the Certificate of Authentication hereon duly signed by the Trustee. This Bond is issued with the intent that the laws of the State of Arkansas shall govern its construction.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed under the Constitution and laws of the State of Arkansas, preceded to and in the issuance of this Bond have existed, have happened and have been performed in due time, form and manner as required by law; that the indebtedness represented by this Bond does not exceed any constitutional or statutory limitation; and that the Revenues have been pledged in accordance with the Acts sufficient to pay this Bond and interest hereon until this Bond and interest hereon have been fully paid and discharged.

IN WITNESS WHEREOF, the Issuer has caused this Bond to be executed by the undersigned Authorized Officers and its corporate seal to be affixed hereto, all as of the Dated Date shown above.

ATTEST:

CITY OF ELM SPRINGS, ARKANSAS

By: _____ Mayor

City Recorder

(SEAL)

(Form of Trustee's Certificate)

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This Bond is issued under the provisions of the within mentioned Issuer's Authorizing Action.

REGIONS BANK
Little Rock, Arkansas
TRUSTEE

By: _____
Authorized Signature

(Form of Assignment)
A S S I G N M E N T

FOR VALUE RECEIVED,
("Transferor"), hereby sells, assigns and transfers unto
_____ , the within Bond and
all rights thereunder, and hereby irrevocably constitutes and
appoints _____ as attorney to transfer
the within Bond on the books kept for registration thereof with
full power of substitution in the premises.

DATE: _____

GUARANTEED BY: _____
Transferor

NOTICE: Signature(s) must be guaranteed by a member of or participant in the Securities Transfer Agents Medallion Program (STAMP), or in another signature guaranty program recognized by the Trustee."

Section 6. Subsection (a) of Section 7 of Ordinance No. 2004-06 is hereby amended to read as follows:

"Section 7. (a) The rates charged for services of the System heretofore fixed by Ordinance No. 2004-02 of the City, as amended by Ordinance No. 2005-_____ of the City, and the conditions, rights and obligations

pertaining thereto, as set out in such Ordinance, are ratified, confirmed and continued."

Section 7. Section 10 of Ordinance No. 2004-06 is hereby amended to read as follows:

"Section 10. (a) The Bond Fund is hereby established and created as a trust fund with the Trustee. Moneys in the Bond Fund shall be used in the following order of priority as and when necessary solely for the following purposes:

- (1) to pay the Trustee's fees and expenses; and
- (2) to pay principal and interest on the Bond.

(b) After making the required monthly deposit into the Operation and Maintenance Fund there shall be paid from the Revenue Fund into the Bond Fund on or before the first business day of each month until the Bond with interest thereon has been paid in full, or provision made for such payment, a sum equal to (A) 1/6 of the installment of principal and interest coming due during the then next six months on the Bond and (B) an amount sufficient to provide for Trustee's fees; provided, however, that monthly payments through May 2007 shall be in an amount equal to 1/6 of the interest on the Bond next due except for monthly payments before the first Payment Date which shall be in approximately equal amounts that are collectively sufficient to make the interest payment on such Payment Date. Credit shall be given on the monthly payments into the Bond Fund for any amounts of investment earnings thereon. Notwithstanding the above, the Trustee shall transfer from the Construction Fund amounts sufficient to make the deposits into the Bond Fund until there are moneys in the Revenue Fund available therefor.

(c) If the Revenues are insufficient to make the required payment on the first business day of the month into the Bond Fund, the amount of any such deficiency in the payment made shall be added to the amount otherwise required to be paid into the Bond Fund on the first business day of the next month.

(d) When the moneys held in the Bond Fund shall be and remain sufficient to pay the principal of and interest on the Bond then outstanding and Trustee's fees in connection therewith, there shall be no obligation to make further payments into the Bond Fund.

(e) If a surplus shall exist in the Bond Fund over and above the amount required for making all principal and interest payments during the succeeding 12 months on the Bond, with Trustee's fees, such surplus may be applied to the payment of the principal of the Bond to the extent that it may be called for redemption prior to maturity. All moneys deposited in the Bond Fund shall be expended within a 13 month period beginning on the date of deposit, and any amount received from investment of money held in the Bond Fund shall be expended within one year from the date of receipt and in any event all money in the Bond Fund in excess of a carryover amount not to exceed the greater of (A) one year's earnings on the Bond Fund, or (B) 1/12 of the annual debt service on the Bond, shall be depleted at least once a year as provided in this Section or by transfer to the Revenue Fund.

(f) In addition to other security pledged herein, the Bond shall be specifically secured by a pledge of all moneys and Revenues required to be placed into the Bond Fund. The pledge in favor of the Bond is hereby irrevocably made according to the terms hereof, and the Issuer and its officers and employees shall execute, perform and carry out the terms thereof in strict conformity with the provisions hereof.

(g) When the Bond shall have been paid in full within the meaning hereof, the Trustee shall take all appropriate action to cause (i) the pledge and lien hereof to be discharged and canceled, and (ii) all moneys held by it pursuant hereto and which are not required for the payment of the Bond and Trustee's fees to be paid over or delivered to or at the direction of the Issuer."

Section 8. Section 13 of Ordinance No. 2004-06 is hereby amended to read as follows:

"Section 13. (a) When the Bond has been executed and sealed by the Authorized Officers, it shall be delivered to the Trustee, which shall authenticate it and deliver it to the Arkansas Soil and Water Conservation Commission upon payment of par ("total sale proceeds"). The sum of \$49,200 shall be paid to the Arkansas Soil and Water Conservation Commission as a servicing fee. The balance of the total sale proceeds shall be deposited in the Construction Fund, which is hereby created with the Trustee.

(b) Prior to or at the time the Bond is delivered to the Trustee, the Issuer shall deposit into the Construction Fund the sum of \$113,000 from available funds held by the Issuer.

(c) The moneys in the Construction Fund shall be used for accomplishing the Improvements (excluding engineering services), paying expenses incidental thereto, paying capitalized interest and paying expenses of issuing the Bond. Disbursements to pay interest on the Bond shall be made by the Trustee without further authorization by the Issuer if the Revenues have not been deposited into the Bond Fund for such purpose. All other disbursements shall be made from the Construction Fund on the basis of consecutively numbered written requisitions which shall specify: the name of the person, firm or corporation to whom payment is to be made; the amount of the payment; the purpose of the payment; and that the payment is a proper charge on the Construction Fund. If any such payment is a reimbursement to the Issuer for funds expended prior to the Date of Issue, the Issuer shall certify that it has complied with the United States Treasury Regulation No. 1.150-2. Each requisition must be signed by an agent of the Registered Owner, an Authorized Officer and, in case of work over which the Project Consultant shall exercise supervision, an agent of the Project Consultant, and the check drawn upon the Construction Fund shall be payable to the person, firm or corporation designated in the requisition. The Trustee shall be required to keep records of all requisitions reflecting all payments made from the Construction Fund.

(d) When the Improvements have been completed and all required expenses paid and expenditures made from the Construction Fund for and in connection with the accomplishment of the Improvements and the financing thereof, this fact shall be evidenced by a certificate signed by an Authorized Officer and an agent of the Project Consultant which certificate shall state, among other things, the date of the completion and that all obligations payable from the Construction Fund have been discharged (the "Completion Certificate"). A copy of the Completion Certificate shall be filed with the Trustee and upon receipt thereof the Trustee shall transfer any remaining balance to the Bond Fund."

Section 9. Section 14 of Ordinance No. 2004-06 is hereby amended to read as follows:

"Section 14. (a) Moneys held for the credit of the Revenue Fund, the Operation and Maintenance Fund, the Bond Fund, the Sewer Depreciation Fund and the Construction Fund shall be invested and reinvested pursuant to the direction of the Issuer, and, in the case of the Bond Fund and the Construction Fund, in the Trustee's discretion in the absence

of any direct instructions from the Issuer, in Government Securities (which for purposes hereof are hereby defined to mean direct or fully guaranteed obligations of the United States of America), in certificates of deposit of banks, including the Trustee, which are insured by the Federal Deposit Insurance Corporation ("FDIC"), or, if in excess of the insured amount, are collateralized by Government Securities or other securities authorized by Arkansas law to secure public funds (collectively, "Collateral Securities"), or in other investments as may, from time to time, be permitted by law and approved by the Registered Owner, which shall mature, or which investments shall be subject to redemption by the holder thereof, at the option of such holder, not later than the date or dates when such money will be required for the purposes intended.

(b) Obligations so purchased as an investment of moneys in any fund shall be deemed at all times to be a part of such fund and the interest accruing thereon and any profit realized from such investments shall be credited to such fund, and any loss resulting from such investment shall be charged to such fund.

(c) Moneys so invested in Government Securities or certificates of deposit of banks to the extent insured by FDIC need not be secured by the depository bank or banks. Except as set forth in the preceding sentence, all deposits of Revenues shall be collateralized by the pledge of Collateral Securities in such a manner as to be perfected against the claims of innocent creditors under the Financial Institution Reform, Recovery and Enforcement Act of 1989 and the Arkansas Uniform Commercial Code.

(d) In determining the value of the Bond Fund, the Trustee shall credit investments at the market value thereof, as determined by the Trustee by any method selected by the Trustee in its reasonable discretion. No less frequently than annually, and in any event on December 31 each year, the Trustee shall determine the value of each such fund and shall report such determination to the Issuer and the Registered Owner. The Trustee shall sell or present for redemption any investments as necessary to provide money for the purpose of making any payment required hereunder. To the extent that any loss or reduction in value reduces the value of any such fund to a level lower than the level required hereunder, such loss or reduction shall be made up in each fund in the priority established herein for payments from the Revenue Fund. The

Trustee shall not be liable for any loss resulting from any such sale.

Section 10. Ordinance No. 2004-06, as amended hereby, shall be and remain in full force and effect.

Section 11. The provisions hereof are hereby declared to be separable and if any provision shall for any reason be held illegal or invalid, such holding shall not affect the validity of the remainder hereof.

Section 12. All actions, ordinances and resolutions or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

ADOPTED THIS DATE: 18 day April 2005.

APPROVED:

ATTEST:

Nerida Putton
City Recorder

BY: Jane Waters
Mayor

(SEAL)

CERTIFICATE

The undersigned hereby certifies that the foregoing pages are a true and correct copy of Ordinance No. _____, adopted at a regular session of the City Council of the City of Elm Springs, Arkansas, held at the regular meeting place in said City at _____ o'clock p.m. on the _____ day of _____, 2005, and that the Ordinance is recorded in Book No. _____, Page _____, now in my possession.

GIVEN under my hand and seal this _____ day of _____, 2005.

City Recorder

(SEAL)

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF WASHINGTON

We, Jane Waters and Glenda Pettus, do solemnly swear that as Mayor and City Recorder, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that certified copies of Ordinance No. 2005-05 (the "Amending Sewer Rate Ordinance") and Ordinance No. 2005-06 (the "Amending Bond Ordinance") were, on the 20th day of April, 2005, duly posted in five separate and distinct places inside the corporate limits of the City as set forth in the Ordinance No. 2001-10 and that the Amending Sewer Rate Ordinance and the Amending Bond Ordinance have remained posted for thirty (30) days.

DATED this 23rd day of May, 2005.

Jane Waters
Mayor

Glenda Pettus
City Recorder

(SEAL)

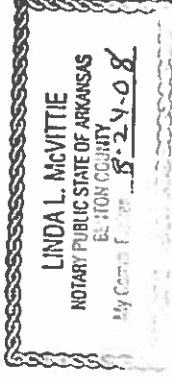
Subscribed and sworn to before me on this 23rd day of May, 2005.

Linda J. McVittie
Notary Public

My Commission Expires:

8-24-08

(SEAL)



AFFIDAVIT

STATE OF ARKANSAS
COUNTY OF WASHINGTON

That I, Glenda Pettus, as the duly elected, qualified and acting City Recorder within and for the City of Elm Springs, Arkansas, do hereby certify that there is no newspaper published within the corporate limits of the City.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the City this 23rd day of May, 2005.

Glenda Pettus
City Recorder

(SEAL)

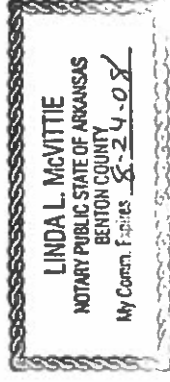
Subscribed and sworn to before me on this 23rd day of May, 2005.

Linda L. McVittie
Notary Public

My Commission Expires:

8-24-08

(SEAL)



ORDINANCE NO. 2005-07

CITY OF ELM SPRINGS, WASHINGTON COUNTY, ARKANSAS

**AN ORDINANCE SETTING PROCEDURES FOR THE
CONTROLLING OF TRASH ON CONSTRUCTION SITES
AND DECLARING AN EMERGENCY**

WHEREAS, the containing and control of trash at construction sites within the City has become a problem, and

WHEREAS, there exists no provision for the regulation and control of construction site waste and trash,

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Elm Springs, as follows:

The purpose of this Ordinance is to insure that the trash of a construction site is controlled and properly disposed of. It is the builder's responsibility to contain and control the waste and trash that accumulates on the construction site. This may be accomplished by the installation of a trash barrier fence around the entire site or the use of a dumpster or trash trailer of proper size and design. He is to see that all trash is picked up and properly disposed of in a timely manner and that no trash shall be allowed to accumulate or blow on to adjacent properties.

The following guidelines shall be used for the installation of a trash barrier fence: The contractor or developer shall erect and maintain in good order a warning barrier such as the Maxi Grid Warning Barrier around the perimeter of the construction site for the purpose of catching and retaining blowing trash. The barrier shall be a minimum of 4 feet tall, continuously anchored to the ground and suspended by posts spaced at no more than 10 foot intervals. One permanent entry way a maximum of 25 feet wide may be left open at a location convenient to the builders.

If construction debris is burned on the site, it shall be properly contained such as in a burn barrel. All precautions shall be followed to insure that the fire is contained and controlled. All ordinances and fire bans shall be observed. It is the builder's responsibility to guard the fire and exercise good judgment when considering to burn debris. Included in that is a consideration of neighboring properties and dwellings. Fires shall be continuously attended by personnel on the site and no fire shall be allowed to burn when no one is present. No materials such as treated lumber or foamboard producing noxious fumes or other hazardous gases shall be burned. No fire shall be allowed to smolder and produce undue amounts of smoke and fumes. All fires shall be completely extinguished no later than sunset of the day the fire is started.

All unburnable trash and waste building materials including bricks, rock, mortar or concrete including 'wash out' concrete shall be properly disposed of off site. The use of burial pits on or off site within the City is expressly forbidden.

Primary responsibility for enforcement of this Ordinance shall rest with the Code Enforcement Officer though it may be enforced by the Police Department.

Violation of the provisions of this code or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall be subject to a fine not to exceed \$500.00 or the cost of any damage done to health or property, whichever is higher, for any one specified offense or violation. If the matter 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 \$250.00 for each day that the same is unlawfully continued.

EMERGENCY CLAUSE; Because the problem of improper disposal and cleanup of construction sites and because blowing trash is unsightly and a nuisance to adjacent properties, it is hereby declared that an emergency exists and that this ordinance being necessary for the preservation of health and safety of the citizens of the City of Elm Springs, Arkansas shall become effective immediately upon its passage, approval and publication.

PASSED AND APPROVED this 11th day of May, 2005

APPROVED

Jane Waters
Mayor Jane Waters

ATTEST

Glenda Pettus
Glenda Pettus, City Clerk/ Recorder

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Glenda Petteo, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2005-07 (the "Contradictory Wash Ordinance") was, on the 18 day of May, 2005, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 18 day of May, 2005.

Jane Waters
Mayor

Glenda Petteo
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 18 Day of May, 2005.

C. Ray Adams
Notary Public

My Commission Expires:
08-01-2012



ORDINANCE NO. 2005-09

AN ORDINANCE APPROVING THE PARTICIPATION BY THE CITY OF ELM SPRINGS IN THE NORTHWEST ARKANSAS CONSERVATION AUTHORITY; APPROVING THE THIRD AMENDED AGREEMENT BETWEEN THE MEMBER CITIES OF THE NORTHWEST ARKANSAS CONSERVATION AUTHORITY; APPROVING THE POWERS THEREIN CREATED; AND AUTHORIZING THE MAYOR AND CLERK TO EXECUTE AND DELIVER SAID AGREEMENT AND RELATED DOCUMENTS; AND DECLARING AN EMERGENCY.

WHEREAS, Title 14, Chapter 233 of the Arkansas Code as amended, permits any two or more Arkansas municipalities, any two or more counties, or any one or more Arkansas municipalities together with any one or more Arkansas counties to create, establish, and become a member of a solid waste disposal authority for the purpose of controlling, collecting, storing, removing, handling, reducing, disposing of, treating, and otherwise dealing in and concerning solid waste as that term is defined in the Joint County and Municipal Solid Waste Disposal Act, Ark. Code Ann. §§ 14-233-101 et seq. (hereinafter the "Act") and for the purposes stated in the Act; and,

WHEREAS, pursuant to Title 14, Chapter 233 of the Arkansas Code, the Cities of Rogers and Springdale, Arkansas, did enter into an agreement and thereby created and established the Northwest Arkansas Conservation Authority (herein referred to as the "Authority") pursuant to the Act and for the purposes stated in the Agreement and permitted by the Act, both as currently stated and as may from time to time be amended or supplemented; and,

WHEREAS, the Cities of Rogers, Springdale and Bentonville entered into an Amended Agreement whereby Bentonville was then considered a member of the Authority; and,

WHEREAS, the Cities of Bentonville, Bethel Heights, Cave Springs, Elm Springs, Lowell, Rogers and Springdale entered into a Second Amended Agreement whereby Bethel Heights, Cave Springs, Elm Springs and Lowell were then considered members of the Authority; and,

WHEREAS, pursuant to Title 14, Chapter 233 of the Arkansas Code, the Cities of Bentonville, Bethel Heights, Cave Springs, Elm Springs, Lowell, Rogers, Springdale and Tontitown, Arkansas, (herein referred to as the "Members") desire to amend the Agreement and hereby expand the membership of the Authority pursuant to the Act, so as to include the City of Tontitown; and,

WHEREAS, the Northwest Arkansas Conservation Authority Third Amended Agreement (herein referred to as the "Third Amended Agreement") in the form attached hereto as Exhibit A is submitted to the City Council; and,

WHEREAS, pursuant to Article X of the Agreement, the obligations of the Authority, including revenue bonds issued by the Authority, shall be payable from and secured by the revenues

and property of the Authority, and shall not constitute a general or limited obligation of any Member; and,

WHEREAS, pursuant to Article XI of the Agreement, all amendments or modification to the Third Amended Agreement must be in writing; and,

WHEREAS, agreeing to participate does not bind the City to any particular service and that, pursuant to the Act and the Third Amended Agreement, a Member may withdraw from participation.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELM SPRINGS, ARKANSAS;

Section 1. The City of Elm Springs has determined that it is in its best interest to continue to be a member of the Northwest Arkansas Conservation Authority. The cities of Bentonville, Bethel Heights, Cave Springs, Elm Springs, Lowell, Rogers, Springdale and Tonitown are proposed to be members of the Authority under the Third Amended Agreement. The powers granted to the Authority are those contained in the Act and the Third Amended Agreement. There are no limitations on the exercise of the powers granted, except those limitations contained in the constitutions of the United States and the State of Arkansas, and the statutes of Arkansas. The Board of Directors of the Authority shall be constituted as provided in the Third Amended Agreement. Each participating city shall appoint the person(s) to the Board of Directors as enumerated in the Third Amended Agreement, which appointment shall become effective upon approval by the City Council. The City of Elm Springs has already appointed its members to that Board and no further action need be taken.

Section 2. The Third Amended Agreement and the terms and conditions thereof are hereby approved.

Section 3. The Mayor and Recorder are authorized to approve and sign an amended application, to be filed with the Secretary of State, to reflect the current membership of the Authority.

Section 4. The Mayor and Recorder are hereby authorized to execute and deliver the Third Amended Agreement.

Section 5. Emergency Clause. It is hereby declared that an emergency exists, and this Ordinance being necessary for the preservation of the health, safety, and welfare of the citizens of Elm Springs, Arkansas shall be effective immediately upon its passage, approval and publication.

PASSED AND APPROVED this 31 day of May, 2005.



Jane Waters, Mayor

ATTEST:

Glenda Pettus
Glenda Pettus, City Recorder

APPROVED AS TO FORM:

Tom Kieklak
Tom Kieklak, City Attorney

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Dlenda Lettles, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2005-09 (the "APCA Agreement Ordinance") was, on the 1st day of June, 2005, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 1st day of June, 2005.

Jane Waters
Mayor

Dlenda Lettles
City Clerk

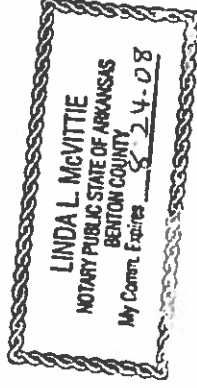
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 1st Day of June, 2005.

Linda L. McVittie
Notary Public

My Commission Expires:

8-24-08



ORDINANCE NO. 2005-14

AN ORDINANCE APPROVING THE PARTICIPATION BY THE CITY OF ELM SPRINGS IN THE NORTHWEST ARKANSAS CONSERVATION AUTHORITY; APPROVING THE FOURTH AMENDED AGREEMENT BETWEEN THE MEMBER CITIES OF THE NORTHWEST ARKANSAS CONSERVATION AUTHORITY; APPROVING THE POWERS THEREIN CREATED; AND AUTHORIZING THE MAYOR AND RECORDER TO EXECUTE AND DELIVER SAID AGREEMENT AND RELATED DOCUMENTS; AND DECLARING AN EMERGENCY.

WHEREAS, Title 14, Chapter 233 of the Arkansas Code as amended, permits any two or more Arkansas municipalities, any two or more counties, or any one or more Arkansas municipalities together with any one or more Arkansas counties to create, establish, and become a member of a solid waste disposal authority for the purpose of controlling, collecting, storing, removing, handling, reducing, disposing of, treating, and otherwise dealing in and concerning solid waste as that term is defined in the Joint County and Municipal Solid Waste Disposal Act, Ark. Code Ann. §§14-233-101 et seq. (hereinafter the "Act") and for the purposes stated in the Act; and,

WHEREAS, pursuant to Title 14, Chapter 233 of the Arkansas Code, the Cities of Rogers and Springdale, Arkansas, did enter into an agreement and thereby created and established the Northwest Arkansas Conservation Authority (herein referred to as the "Authority") pursuant to the Act and for the purposes stated in the Agreement and permitted by the Act, both as currently stated and as may from time to time be amended or supplemented; and,

WHEREAS, the Cities of Rogers, Springdale and Bentonville entered into an Amended Agreement whereby Bentonville was then considered a member of the Authority; and,

WHEREAS, the Cities of Bentonville, Bethel Heights, Cave Springs, Elm Springs, Lowell, Rogers and Springdale entered into a Second Amended Agreement whereby Bethel Heights, Cave Springs, Elm Springs and Lowell were then considered members of the Authority; and,

WHEREAS, the Cities of Bentonville, Bethel Heights, Cave Springs, Elm Springs, Lowell, Rogers, Springdale and Tontitown entered into a Third Amended Agreement whereby Tontitown was then considered a member of the Authority; and,

WHEREAS, pursuant to Title 14, Chapter 233 of the Arkansas Code, the Cities of Bentonville, Bethel Heights, Cave Springs, Centerteron, Elm Springs, Highfill, Lowell, Rogers, Springdale and Tontitown, Arkansas, (herein referred to as the "Members") desire to amend the Agreement and hereby expand the membership of the Authority pursuant to the Act, so as to include the Cities of Centerteron and Highfill; and,

WHEREAS, the Northwest Arkansas Conservation Authority Fourth Amended Agreement

(herein referred to as the "Fourth Amended Agreement") in the form attached hereto as Exhibit A is submitted to the City Council; and,

WHEREAS, pursuant to Article X of the Agreement, the obligations of the Authority, including revenue bonds issued by the Authority, shall be payable from and secured by the revenues and property of the Authority, and shall not constitute a general or limited obligation of any Member; and,

WHEREAS, pursuant to Article XI of the Agreement, all amendments or modification to the Fourth Amended Agreement must be in writing; and,

WHEREAS, agreeing to participate does not bind the City to any particular service and that, pursuant to the Act and the Fourth Amended Agreement, a Member may withdraw from participation.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELM SPRINGS, ARKANSAS;

Section 1. The City of Elm Springs has determined that it is in its best interest to continue to be a member of the Northwest Arkansas Conservation Authority. The cities of Bentonville, Bethel Heights, Cave Springs, Centerion, Elm Springs, Highfill, Lowell, Rogers, Springdale and Tontitown are proposed to be members of the Authority under the Fourth Amended Agreement. The powers granted to the Authority are those contained in the Act and the Fourth Amended Agreement. There are no limitations on the exercise of the powers granted, except those limitations contained in the constitutions of the United States and the State of Arkansas, and the statutes of Arkansas. The Board of Directors of the Authority shall be constituted as provided in the Fourth Amended Agreement. Each participating city shall appoint the person(s) to the Board of Directors as enumerated in the Fourth Amended Agreement, which appointment shall become effective upon approval by the City Council. The City of Elm Springs has already appointed its members to that Board and no further action need be taken.

Section 2. The Fourth Amended Agreement and the terms and conditions thereof are hereby approved.

Section 3. The Mayor and Recorder are authorized to approve and sign an amended application, to be filed with the Secretary of State, to reflect the current membership of the Authority.

Section 4. The Mayor and Recorder are hereby authorized to execute and deliver the Fourth Amended Agreement.

Section 5. Emergency Clause. It is hereby declared that an emergency exists, and this Ordinance being necessary for the preservation of the health, safety, and welfare of the citizens of Elm Springs, Arkansas shall be effective immediately upon its passage, approval and publication.

PASSED AND APPROVED this 19 day of September, 2005.

Jane Waters
Jane Waters, Mayor

ATTEST:

Glenda Pettus
Glenda Pettus, City Recorder

APPROVED AS TO FORM:

Tom Kieklak, City Attorney

EXHIBIT A

NORTHWEST ARKANSAS CONSERVATION AUTHORITY FOURTH AMENDED AGREEMENT

This Fourth Amended Agreement (herein referred to as the "Agreement") entered into as of the _____ day of _____, 2005, but actually executed by the respective parties hereto on the dates indicated for such parties on the signature pages hereto, by and among the City of Bentonville, the City of Bethel Heights, the City of Cave Springs, the City of Centerlon, the City of Elm Springs, the City of Highfill, the City of Lowell, the City of Rogers, the City of Springdale, and the City of Tontitown, all of which parties are situated in the State of Arkansas (the "State").

WHEREAS, Title 14, Chapter 233 of the Arkansas Code as amended, permits any two or more Arkansas municipalities, any two or more counties, or any one or more Arkansas municipalities together with any one or more Arkansas counties to create, establish, and become a member of a solid waste disposal authority for the purpose of controlling, collecting, storing, removing, handling, reducing, disposing of, treating, and otherwise dealing in and concerning solid waste as that term is defined in the Joint County and Municipal Solid Waste Disposal Act, Ark. Code Ann. §§14-233-101 et seq. (hereinafter the "Act") and for the purposes stated in the Act; and,

WHEREAS, pursuant to Title 14, Chapter 233 of the Arkansas Code, the Cities of Rogers and Springdale, Arkansas, did enter into an agreement and thereby created and established the Northwest Arkansas Conservation Authority (herein referred to as the "Authority") pursuant to the Act and for the purposes stated in the Agreement and permitted by the Act, both as currently stated and as may from time to time be amended or supplemented; and,

WHEREAS, the Cities of Rogers, Springdale and Bentonville entered into an amended agreement whereby Bentonville was then considered a member of the Authority; and,

WHEREAS, the Cities of Bentonville, Bethel Heights, Cave Springs, Elm Springs, Lowell, Rogers and Springdale entered into a second amended agreement whereby Bethel Heights, Cave Springs, Elm Springs and Lowell were then considered members of the Authority; and,

WHEREAS, the Cities of Bentonville, Bethel Heights, Cave Springs, Elm Springs, Lowell, Rogers, Springdale and Tontitown entered into a Third Amended Agreement whereby Tontitown was then considered a member of the Authority; and,

WHEREAS, pursuant to Title 14, Chapter 233 of the Arkansas Code, the Cities of Bentonville, Bethel Heights, Cave Springs, Elm Springs, Lowell, Rogers, Springdale and Tontitown, Arkansas, (herein referred to as the "Members") desire to amend the Agreement and hereby expand the membership of the Authority pursuant to the Act, so as to include the Cities of Centerlon and Highfill; and,

WHEREAS, the governing bodies of the Cities of Bentonville, Bethel Heights, Cave Springs, Centerton, Elm Springs, Highfill, Lowell, Rogers, Springdale and Tontitown, Arkansas, respectively, have each enacted an ordinance (collectively, the "Ordinances") authorizing the participation of each of the respective Members in such an authority (a certified copy of each of such Ordinance being filed with the Board of Directors of the Authority); and

NOW, THEREFORE, in consideration of the mutual covenants contained herein and pursuant to the statutes which permit this authority, it is hereby agreed by the Members as follows:

ARTICLE I- DEFINITIONS

1.01 Definitions and Interpretations.

(A) All defined terms contained in this Agreement shall have the same meaning, respectively, in this Agreement as such terms are given in Section 14-233-102 of the Arkansas Code, as the same may be amended from time to time.

(B) In addition, as used in this Agreement, unless the context shall otherwise require, the following terms shall have the following respective meanings:

- (1) "Act" means the Joint County and Municipal Solid Waste Disposal Act, constituted as Title 14, Chapter 233 of the Arkansas Code, as amended;
- (2) "Agreement" means this Northwest Arkansas Conservation Authority Agreement, as the same may from time to time be amended or supplemented;
- (3) "Authority" means the Northwest Arkansas Conservation Authority created in Article II hereof;
- (4) "Authorized Officer" means, with respect to the Authority, its Chairman and any other person duly authorized by the Bylaws or resolution of the Authority to perform the act or sign the document in question, and with respect to a City, the Mayor and any other person duly authorized by ordinance or resolution of the Governing Body of the applicable City to perform the act or sign the document in question;
- (5) "Board of Directors" or "Board" means the governing board of the Authority established in Section 6.01 hereof;
- (6) "City" means each of the Cities of Bentonville, Bethel Heights, Cave Springs, Centerton, Elm Springs, Highfill, Lowell, Rogers, Springdale and Tontitown, Arkansas;

Words of the masculine gender shall be deemed and construed to include correlative words of the feminine gender. Unless the context shall otherwise indicate, words importing the singular number

shall include the plural number and vice versa.

The terms “hereby,” “hereto,” “herein,” and “hereunder,” and any similar terms, as used in this Agreement, refer to this Agreement.

ARTICLE II - CREATION

The cities signatory hereto hereby create the Northwest Arkansas Conservation Authority and constitute it as a public body and a body corporate and politic for the purposes and under the terms herein stated pursuant to the authority of Act 699 of 1979, Act 678 of 1985, Act 960 of 1991, Act 962 of 1991, Act 170 of 1993, Act 163 of 1995, Act 472 of 1999, and Act 611 of 2001, all as codified in Arkansas Code Annotated, Title 14, Chapter 233 and as such may be amended or supplemented from time to time.

ARTICLE III - AUTHORIZATION

The parties to the Agreement are the Members. The Members have agreed to join cooperatively in establishing the Authority and do hereby agree to the continued operation of the Authority.

ARTICLE IV - DURATION

The Authority shall have a perpetual existence or its existence shall be of such duration as there are no longer two cities who desire to be Members of the Authority. This is subject to the provisions contained in Section 12.01.

ARTICLE V - MEMBERS

5.01 Adding Members. After creation of the Authority, any other municipality or county may become a member upon application and with the unanimous consent of the Members, pursuant to the procedure set forth in Ark. Code Ann. § 14-233-106. Representation on the Board of Directors for new Members shall be as provided in Article VI.

5.02 Withdrawal. Subject only to the provisions of Section 12.01, any Member may withdraw from the Authority at any time without the consent of the other Members. All contractual rights acquired and obligations incurred while the municipality was a member shall remain in full force and effect.

ARTICLE VI - ORGANIZATION

6.01 Board of Directors. The Authority shall be governed by a Board of Directors consisting of thirteen (13) persons appointed by the Members. Consistent with the procedures established by the ordinances of the Member City, each City shall appoint its representatives to serve

on the Board of Directors, each of such appointments to become effective upon ratification by a majority vote of the applicable Governing Body of such City. The Members shall be entitled to make the following number of appointments:

City of Bentonville	Two Directors, both of whom shall be entitled to vote
City of Rogers	Two Directors, both of whom shall be entitled to vote
City of Springdale	Two Directors, both of whom shall be entitled to vote
City of Bethel Heights	One Director, who shall be entitled to vote
City of Cave Springs	One Director, who shall be entitled to vote
City of Centerton	One Director, who shall be entitled to vote
City of Elm Springs	One Director, who shall be entitled to vote
City of Highfill	One Director, who shall be entitled to vote
City of Lowell	One Director, who shall be entitled to vote
City of Tontitown	One Director, who shall be entitled to vote

Any new Member shall initially be entitled to one Director upon joining the Authority. If the population of such Member shall reach forty thousand (40,000) persons according to the most recent federal decennial census, that Member shall then be entitled to a second Directorship.

6.02 Term of Office. The terms of the Directors shall be six (6) years; provided, however, that the initial Board of Directors, having drawn lots at the creation of the Board to provide for staggered terms, and their successors shall continue to serve as Directors as provided for in the Agreement. Terms of the Directors shall expire on December 31. The initial terms shall be staggered so that no Member City shall have its two directors' terms expire the same year or in consecutive years. Lots shall be drawn by City and the combination of initial terms for each City shall be as follows: four (4) and six (6) years; and three (3) and five (5) years. Lots shall be drawn by the two directors appointed by each City to determine the assignment of the initial terms drawn by that City. With the addition of new members terms may be adjusted as deemed appropriate by the Board of Directors.

6.03 Removal. A Director, once qualified, shall not be removed during his or her appointment except for cause by the Governing Body which appointed said Director and after a hearing before said Governing Body as may be required by law, conducted in accordance with the rules of administrative procedure applicable to or recognized by such Governing Body. If a Member City votes to withdraw from the Authority, the Directors appointed by that Member City shall automatically be removed from the Board of Directors, the size of the Board shall be reduced accordingly and all officer positions and committee assignments held by those Directors shall be immediately vacant until the Board meets to fill those positions.

6.04 Qualifications. A member of the Board of Directors shall be a citizen, who is a qualified elector of the municipality appointing him/her or a qualified elector of the area served by that municipality. A member of the Board of Directors shall be eligible for reappointment. The Directors shall file the oath of public officials required by law in the State of Arkansas.

6.05 Compensation of Board Members. The members of the Board of Directors shall receive no compensation, whether in the form of salary or per-diem or otherwise, for or in connection with his or her services as a Board member. The members of the Board of Directors shall be entitled to reimbursement of actual necessary travel and out-of-pocket expenses incurred on behalf of the Authority as authorized by the Board. Such expenses shall be reimbursed in accordance with procedures established by the Board of Directors.

ARTICLE VII - OFFICERS, BY-LAWS AND MEETINGS

7.01 Officers. (A) At the first regular meeting of each calendar year, the Board shall elect one of its members as Chairman, one as Vice Chairman, one as Secretary, and one as Treasurer. The offices of Secretary and Treasurer may be held by one person at the discretion of the Board of Directors.

(B) The Chairman, Vice Chairman, Secretary and Treasurer shall compose the Executive Committee of the Authority. The Board of Directors may, by a two-thirds (2/3) majority vote, delegate to the Executive Committee such powers and duties as the Board may deem proper.

(C) The Board of Directors may create such committees as it deems necessary for the proper exercise of its functions. The Board shall keep a complete record of its activities and business, which shall be a public record.

7.02 Bylaws. The Board of Directors may adopt such Bylaws for the governance of the affairs of the Authority so long as the Bylaws are not inconsistent with the provisions of this Agreement or State law.

7.03 Meetings. (A) The Board of Directors shall, upon reasonable notice, meet not less than quarterly at dates, times, and places to be established by the Board. All meetings shall be open to the public as provided by State law. A meeting may be called by any Board officer or upon the direction of a majority of the members of the Board.

(B) A quorum shall consist of one half (1/2) of the total Board membership, plus one member, and no vacancy in the membership of the Authority shall restrict the rights of a quorum to exercise all the rights and privileges or the duties of the Authority.

7.04 Conflicts of Interest. No member of the Board of Directors or any officer, employee, or agent of the Authority shall have a personal interest in any business of the Authority or in any contract with the Authority, or in any property or other assets in which the Authority is interested. No person shall be employed by the Authority who is related to a Board member or officer of the Authority by blood or marriage within the fourth degree. For purposes of this provision, any corporation or other business in which a person has a substantial interest shall be prohibited from doing business with the Authority if the owner of the substantial interest would have been so prohibited.

ARTICLE VIII - PURPOSES, POWERS, AND DUTIES

8.01 Purposes. The purpose of the Authority shall be to accomplish projects which may include controlling, collecting, storing, removing, handling, reducing, disposing of, treating, and otherwise dealing in and concerning solid waste as that term is defined in the Act as presently stated or as it is amended from time to time. This general purpose may be pursued in such manner as may be deemed desirable from time to time by the Board of Directors. The authority may acquire, equip, construct, maintain, and operate facilities and offer such services as the Board of Directors deems appropriate and which may include but not be limited to operate facilities to process and dispose of sludge, to operate waste water treatment plants, to operate laboratory facilities, or to share other functions and resources so as to best serve the members of the Authority. Such services and facilities may be located on the property of the Authority or by arrangement at any other location.

8.02 Powers and Duties. In addition to other powers and duties elsewhere conferred and imposed, the Authority shall have all powers and duties conferred and imposed by the Act, including, but not limited to, those powers enumerated in Ark. Code Ann. § 14-233-107, as currently written and as may be hereafter amended, which powers include the following:

- (A) To have perpetual succession as a body politic and corporate, and to adopt bylaws for the regulation of the affairs and the conduct of its business, and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties;
- (B) To adopt an official seal and alter it at pleasure;
- (C) To maintain an office at such places as it may determine;
- (D) To sue and be sued in its own name and to plead and be impleaded;
- (E) To make and execute contracts and other instruments necessary or convenient in the exercise of the powers and functions of the authority under the Act including contracts with persons, firms, corporations, and others;
- (F) To apply to the appropriate agencies of the state, the United States, or any state thereof, and to any other proper agency for such permits, licenses, certificates, or approvals as may be necessary, and to construct, maintain, and operate projects in accordance with, and to obtain, hold and use licenses, permits, certificates, or approvals in the same manner as any other person or operating unit of any other person;
- (G) To employ such engineers, architects, attorneys, real estate counselors, appraisers, financial advisors, and other consultants and employees as may be required in the judgment of the authority and to fix and pay their compensation from funds available to the authority therefor;

(H) To purchase all kinds of insurance including, but not limited to, insurance against tort liability, business interruption, and risks of damage to property;

(I) To fix, charge, and collect rents, fees, and charges for the use of any project or portion thereof or for steam produced therefrom;

(J) To accomplish projects as authorized by the Act and the ordinances creating the authority;

(K) To distribute steam produced by a project to any person, municipality, or county;

(L) To do any and all other acts and things necessary, convenient, or desirable to carry out the purposes and to exercise the powers granted to the Authority by the Act; and,

(M) To contract for the sale of electric energy produced by any such project, or to consume electric energy produced by any project.

8.03 Additional Powers and Duties. There are no limitations on the exercise of the powers granted, except those limitations contained in the constitutions of the United States and the State of Arkansas, and the statutes of Arkansas. In addition to the foregoing, the Authority shall specifically have the following powers and duties:

(A) To make and adopt all necessary Bylaws, rules, and regulations for its organization and operations not inconsistent with law;

(B) To elect its own officers, to appoint committees, and to employ and fix the compensation for personnel necessary for its operation;

(C) To enter into contracts with any person, governmental entity or department, firm, or corporation, including both public and private corporations, and generally to do any and all things necessary or convenient for the purpose of acquiring, equipping, constructing, maintaining, improving, extending, financing, and operating facilities to process and dispose of sludge, to operate waste water treatment plants, to operate laboratory facilities, or to share other functions and resources so as to best serve the members of the Authority;

(D) To delegate any authority given to it by law to any of its officers, committees, agents, or employees;

(E) To apply for, receive, and use grants-in-aid, donations, and contributions from any source, including but not limited to, the federal government, or any agency thereof, and the State, or any agency thereof, and to accept and use bequests, devises, gifts, and donations from any person, firm, or corporation;

- (F) To acquire lands and hold title thereto in its own name;
- (G) To acquire, own, hold, lease as lessor or as lessee, sell, encumber, dispose of, or otherwise deal in and with any facilities or real, personal or mixed property, wherever located;
- (H) To borrow money and execute and deliver negotiable notes, mortgage bonds, other bonds, debentures, and other evidences of indebtedness therefore, and give such security therefore as shall be requisite, including giving a mortgage or deed of trust on its properties and facilities in connection with the issuance of mortgage bonds;
- (I) To raise funds by the issuance and sale of revenue bonds in the manner and according to the terms set forth in State law;
- (J) To expend its funds in the execution of the powers and authorities given herein or by law and to invest and reinvest any of its funds pending need therefore;
- (K) To apply for, receive, and use loans, grants, donations, technical assistance, and contributions from any regional or area commissions that may be established and any agency of the federal government or the State;
- (L) To plan, establish, develop, construct, enlarge, improve, maintain, equip, operate, and regulate its various facilities and auxiliary services;
- (M) To make such charge for services provided to participants as the board shall deem appropriate; and,
- (N) To promote, advertise, and publicize the Authority and its facilities; provide information to the public, private enterprise, commercial operations and other commercial interests; and to represent and promote the interests of the Authority.

ARTICLE IX - FINANCING

9.01 The cost of planning and acquiring, establishing, developing, constructing, enlarging, improving, or equipping any facility constructed by the Authority including buildings and other facilities, may be funded in any manner not inconsistent with the Arkansas Constitution or State law, including but not limited to: the issuance of bonds, borrowing money, allocations of other available funds from whatever source; revenues derived from the operation of the facilities; revenues from leases and contracts granting privileges for use of the facilities; revenue from contracts conferring the privilege of supplying goods, commodities, services, or facilities at such site or sites as the deemed appropriate by the Authority; revenue from fees, charges, gifts and grants.

9.02 Any plan or plans for financing and construction of the facilities contemplated by this Agreement shall not be required to be presented to the Members. The Members expressly recognize

that the specific improvements, conditions in the financial marketplace, marketing strategy, and other factors may affect the precise terms of such plan. Receipt by the Members of such plan shall not be deemed to constitute approval nor preclude the amendment, modification, variation or revision of the plan by the Board of Directors, so long as such amendment, modification, variation or revision imposes no liability on the Members as provided in Article X below. The Members expressly disclaim any warranty of the Authority's financing plan.

ARTICLE X - LIMITATION OF LIABILITY

None of the Members has herewith obligated itself to expend any of its individual funds nor has it authorized the use of its individual bonding capacity. The obligations of the Authority, including revenue bonds issued by the Authority under the Act, shall be payable from and secured by the revenues and property of the Authority, and shall not constitute a general or limited obligation of any Member. Bonds issued by the Authority shall not constitute an indebtedness of any Member within any constitutional or statutory limitation.

ARTICLE XI - AMENDMENT

This Agreement may be modified or amended upon the unanimous written consent of all of the Members who are then members. Such consent shall be evidenced by (i) the enactment of an ordinance by the Governing bodies of each Member approving the substance of any such modification or amendment and (ii) the duly attested manual signature of an Authorized Officer of each of the Members affixed to the amendatory document.

ARTICLE XII - TERMINATION

12.01 This Agreement shall continue in full force and effect subsequent to its adoption by all the Members. Once this Agreement has been approved and executed by the Members, this Agreement may not be terminated until the expiration of the period of any financial commitment made by the Authority and the payment, termination, or defeasance of any such bonds, notes or other obligations of the Authority payable solely from revenues of the Authority.

12.02 In the event the Authority shall be dissolved or for any reason the Authority shall cease to function, and no successor entity shall assume the power, duties and obligations of the Authority, upon due satisfaction of all financial debts and obligations of the Authority, the properties and assets of the Authority shall be liquidated and distributed to the Members in direct proportion to the funds contributed to the Authority by said Members, respectively. For the purposes of carrying out this provision, the Board of Directors shall appoint a Trustee, who shall be paid reasonable compensation and who shall serve until the property and assets of the Authority have been fully liquidated and distributed.

ARTICLE XIII - AGREEMENT CONTROLLING;
RATIFICATION OF PRIOR AGREEMENT AND ACTS

The Members, by the execution of this Agreement, ratify, validate, approve, and confirm the creation and establishment of the Authority. The Members acknowledge that this Agreement controls the actions of the Authority and the Members' rights related thereto.

ARTICLE XIV - ENTIRE AGREEMENT; DATED DATE; EFFECTIVE DATE

This writing constitutes the entire agreement between the Members. All amendments or modifications hereto must be in writing and comply with Article XI hereof.

This Agreement shall be dated as of the date on which the last Member executes this Agreement.

IN WITNESS WHEREOF the Members have caused this Agreement to be executed in their respective behalves on the signature dates set forth below:

CITY OF BENTONVILLE, ARKANSAS

By: _____
Terry Coberly, Mayor Date

ATTEST:

Suzanne Grider, City Clerk Date

CITY OF BETHEL HEIGHTS, ARKANSAS

By: _____
Fred Jack, Mayor

Date

ATTEST:

Tom Dee, City Recorder

Date

CITY OF CAVE SPRINGS, ARKANSAS

By: _____
Thekia Wallis, Mayor

Date

ATTEST:

Nicole Hart, City Recorder

Date

CITY OF CENTERTON, ARKANSAS

By: _____
Ken Williams, Mayor

Date

ATTEST:

Bobbie Griffith, City Recorder

Date

CITY OF ELM SPRINGS, ARKANSAS

By: Jane Waters
Jane Waters, Mayor

9-22-05
Date

ATTEST:

Glenda Pettus
Glenda Pettus, City Recorder

9-22-05
Date

CITY OF HIGHFILL, ARKANSAS

By: _____
Chris Holland, Mayor

Date

ATTEST:

Brenda Frazier, City Recorder

Date

CITY OF LOWELL, ARKANSAS

By: _____
Phil Biggers, Mayor

Date

ATTEST:

Sandra Jarrett, City Clerk

Date

CITY OF ROGERS, ARKANSAS

By: Steve Womack, Mayor _____
Date

ATTEST:

Peggy David, City Clerk _____
Date

CITY OF SPRINGDALE, ARKANSAS

By: Jerre M. Van Hoose, Mayor _____
Date

ATTEST:

Denise Pearce, City Clerk _____
Date

CITY OF TONTITOWN, ARKANSAS

By: Paul Maestri, Mayor _____
Date

ATTEST:


Toni Zulpo, City Recorder _____
Date

**CITY OF
ELM SPRINGS**

STATE OF ARKANSAS)
)
COUNTY OF WASHINGTON)

Date: 9-19-05

The undersigned, City Recorder of the City of Elm Springs, Arkansas hereby certifies that the attached is a true and correction copy of Ordinance No 2005-14 of the city adopted and approved by the Elm Springs City Council on the 19 day of September, 2005, and that the ordinance has been recorded in the minutes and kept in the records by the city recorder of the City of Elm Springs.



City Recorder
City of Elm Springs

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Linda Ferris do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 03-14 (the "NACA Ordinance") was, on the 30 day of September, 2007, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10, and that the Ordinance remained posted for thirty (30) days.

DATED this 30 day of September, 2007.

Jane Waters
Mayor

Linda Ferris
City Clerk

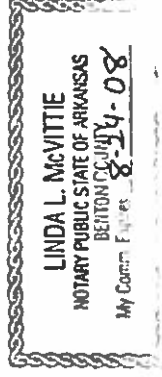
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 30th day of Sept, 2007.

Linda L. McVittie
Notary Public

My Commission Expires:

8-24-08



ORDINANCE NO. 2005- 17

CITY OF ELM SPRINGS, WASHINGTON AND BENTON COUNTIES, ARKANSAS
AN ORDINANCE TO ADOPT THE DRAINAGE CRITERIA MANUAL CURRENTLY
USED FOR THE CITY OF SPRINGDALE, (2000) EDITION, BY REFERENCE AND
DECLARING AN EMERGENCY

WHEREAS, the continued and increasing development pressure as well as building activity in the city limits of the City of Elm Springs has given rise to an acute need for more comprehensive drainage design controls; and

WHEREAS, recent drainage failures within the new development in the City of Elm Springs has caused great hardship and potential loss of revenues for the City of Elm Springs and its citizens; and

WHEREAS, the Planning Commission of Elm Springs has deliberated about a drainage solution and their review of the City of Springdale's drainage criteria manual leads them to conclude that it will be sufficient, and the Planning Commission recommends that these criteria be adopted in the interim, until a comprehensive drainage criteria manual can be drafted for the City of Elm Springs.

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Elm Springs, as follows:

Section 1. The following code is hereby adopted by reference, save and except the portions thereof as are herein under modified or amended, as they were copied herein fully:

City of Springdale Drainage Criteria Manual (2000 Ed.)

Section 2. When reference is made within said Code to the duties of a certain official named therein, that designated official of the City of Elm Springs, Arkansas, who has duties corresponding to those of the named official in said Code, shall be deemed to be the responsible official insofar as enforcing the provisions of said Code are concerned. Further, three (3) copies of the Codes adopted hereinabove shall be kept at the office of the City Clerk in Elm Springs and shall be available for inspection by the public during regular business hours.

Section 3. This Ordinance shall take effect and be in force and effect from and after its passage, and that this Ordinance supersedes and replaces any other Ordinances in conflict herewith, except that nothing contained in this Ordinance, or the code adopted hereby, shall in any way alter or effect the "employment at

will" status of all employees of the City of Elm Springs, including any and all employees who will apply and administer these codes.

Section 4. In the event any one or more of the provisions contained in this Ordinance shall for any reason be held by a Court of Law to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this Ordinance, and this Ordinance shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

Section 5. EMERGENCY CLAUSE. It is hereby declared that an emergency exists because the drainage issues corresponding to the development within the corporate limits and planning boundaries of the City of Elm Springs are creating serious problems for the citizens of Elm Springs, and these issues will worsen without immediate attention. It is therefore necessary that these fees take effect so that the City of Elm Springs will have sufficient resources to ensure that drainage issues regarding future development corresponds to all planning and zoning regulations in the City of Elm Springs and that the health, safety and welfare of the City of Elm Springs is protected.

THEREFORE, this ordinance shall be effective upon its passage, approval and publication.

PASSED AND APPROVED this 21 day of November, 2005.

APPROVED:


Jane Waters, Mayor

Attest:


Glenda Pettus, City Clerk

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Wenda Lettux, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2005-17 (the "Adopt Drainage Manual Ordinance") was, on the 2nd day of December, 2005, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 2nd day of December, 2005.

Jane Waters
Mayor

Wenda Lettux
City Clerk

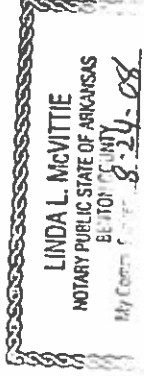
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 2
Day of Dec, 2005.

Linda L. McVittie
Notary Public

My Commission Expires:

8-24-08



ORDINANCE NO. 2006-03

AN ORDINANCE AMENDING SEPTIC TANK REGULATIONS FOR THE CITY OF ELM SPRINGS, ARKANSAS, AND DECLARING AN EMERGENCY

WHEREAS, on about August 18, 2003, the City Council of the City of Elm Springs, on recommendation of the Sewer Committee, adopted Septic Tank Regulations; and,

WHEREAS, the Sewer Committee has now recommended an amendment to the regulations, to require that only fiberglass tanks be used; and,

WHEREAS, the adoption and application of this amendment to the regulations is vital to the continuing sewer project and the health and safety of the citizens of Elm Springs, Arkansas.

NOW, THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Elm Springs:

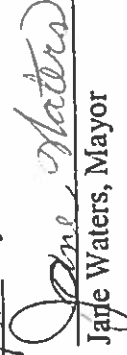
Section 1: The Septic Tank Requirements, as passed by the City of Elm Springs, are hereby amended, at section five (5), to delete concrete tanks as a choice for installation in Elm Springs. The specifications for concrete tanks, found in section six (6) shall no longer apply. A copy of this ordinance shall be attached to the existing regulations, and no builder or developer shall receive a permit for further construction until all construction is fully compliant with those regulations, as amended by this ordinance

Section 2: All other parts of the previous adopting ordinance and the tank regulations shall remain in full force and effect.

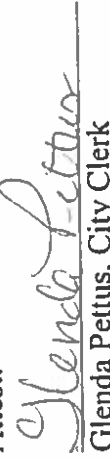
Section 3. This Ordinance shall take effect and be in force and effect from and after its passage, and that this Ordinance supercedes and replaces any other Ordinances in conflict herewith. In the event any one or more of the provisions contained in this Ordinance shall for any reason be held by a Court of Law to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this Ordinance, and this Ordinance shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

Section 4: Emergency Clause. It has been found and hereby is declared by the City Council that this ordinance is immediately required for the safe handling of liquid wastes and for protection of the soils and environment of Elm Springs, and an emergency is hereby declared to exist and this ordinance being necessary for the preservation of the orderly development of the City and for the health and safety of its citizens shall be in full force and effect from the date of its passage and approval.

PASSED AND APPROVED this 3/20 day of 2006.


Jane Waters, Mayor

Attest:


Glenda Pettus, City Clerk

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Denise Lettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas, that a certified copy of Ordinance No. 2006-030 (the "Amend Septic Tank Regulations Ordinance") was, on the 27 day of March, 2006, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 27 day of March, 2006.

Jane Waters
Mayor

Denise Lettus
City Clerk

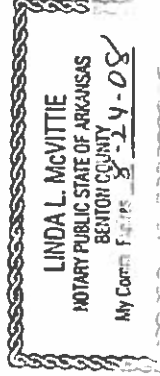
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 27
Day of March, 2006.

Linda L. McVittie
Notary Public

My Commission Expires:

8-24-08



ORDINANCE NO. 2008-02

CITY OF ELM SPRINGS, ARKANSAS

AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT OF PROVISIONS
FOR GRADING AND LAND ALTERATION FOR
THE CITY OF ELM SPRINGS AND FOR OTHER PURPOSES.

WHEREAS, it has been brought to the attention of the City Council that during the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches and the dredging of lakes. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat, and;

WHEREAS, the City Council for the City of Elm Springs has been advised by the Planning Commission and its staff that the establishment of provisions for grading and land alteration is necessary and in the best interests of the protection of the citizens of Elm Springs and their property, and;

WHEREAS, the purpose of this ordinance is to safeguard persons, protect property, and prevent damage to the environment and to more fully comply with State and Federal Regulations regarding soil erosion in the City of Elm Springs, Arkansas. This ordinance will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the City of Elm Springs.

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Elm Springs, as follows:

Section 1. Definitions.

- (a) *City* means the City of Elm Springs, Arkansas
- (b) *Clearing* means any activity that removes the vegetative surface cover.
- (c) *Drainage Way* means any channel that conveys surface runoff.
- (d) *Erosion Control* means a measure that prevents erosion.
- (e) *Grading Permit* means a permit issued by the municipality for the construction or alteration of ground improvements and structures for the control of erosion, runoff, and grading.
- (f) *Grading Plan* means a set of plans prepared by or under the direction of a licensed professional engineer indicating the proposed grading for a site and the specific measures

and sequencing to be used to control sediment and erosion on a development site during and after construction.

(g) Grading means excavation or fill of material, including the resulting conditions thereof.

(h) Perimeter Control means a barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

(i) Phasing means clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

(j) Sediment Control means measures that prevent eroded sediment from leaving the site.

(k) Site means a parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

(l) Stabilization means the use of practices that prevent exposed soil from eroding.

(m) Start of Construction means the first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

(n) Watercourse means any body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water delineated by the US Army Corp of Engineers.

(o) Waterway means a channel that directs surface runoff to a watercourse or to the public storm drain.

Section 2. Permits.

A. No person shall be granted a grading permit for land-disturbing activity that would require the uncovering of 2,000 or more square feet without the approval of a Grading Plan by the City of Elm Springs.

1. No grading permit is required for the following activities:

- a. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
- b. Existing nursery and agricultural operations conducted as a permitted main or accessory use.
- c. Construction of a single family home or duplex.

- d. Construction of a building addition of less than 2,000 square feet.
- e. Cemetery Graves.
- f. Excavations below finished grade for basements, footings, swimming pools, hot tubs, septic systems, and like structures authorized by a valid building permit.

Section 3. Fees.

A. The fees required for the submittal of a grading plan shall be as follows:

- 1. For sites less than one (1) acre the fee shall be \$50.00.
- 2. For sites from one (1) to ten (10) acres the fee shall be \$100.00.
- 3. For sites greater than ten (>10) acres the fee shall be \$200.00.

The fees shall be submitted to the City at the time of submittal of the grading plan.

Section 4. Appeal.

A. The ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction of the City of Elm Springs. The City of Elm Springs will review each application for a grading permit to determine its conformance with the provisions of this regulation. Within 30 days after receiving an application, the City shall, in writing:

- 1. Approve the permit application; or
- 2. Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
- 3. Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission.

B. Failure of the City to act on an original or revised application within 45 days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and the City. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the City.

Section 5. Grading Plan.

A. The Grading Plan shall include the following:

- 1. A seal of a professional engineer registered in the State of Arkansas.

2. A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
3. All erosion and sediment control measures necessary to meet the objectives of this local regulation throughout all phases of construction and after completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.
4. Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures as necessary.
5. Provisions for maintenance of control facilities.
6. The plan shall be at a scale no smaller than 1" = 60'.
7. Vicinity map.
8. Name of the owner and/or developer.
9. Adjacent property owners labeled.
10. Soil Types.
11. Acreage of the site.
12. Zoning of the site.
13. Existing grades shown as dashed contours at 2' maximum spacing.
14. Proposed grades shown as solid contours at 2' maximum spacing.
15. Clearly identified limits of disturbance.
16. Location of property lines and right of way.
17. Location of all easements.
18. Floodplain statement.
19. Location of floodplain/floodway if applicable.

B. Modifications to the plan shall be processed and approved or disapproved in the same manner as Section IV of this regulation, may be authorized by the City by written authorization to the permittee, and shall include:

1. Major amendments of the erosion and sediment control plan submitted to the City.
2. Field modifications of a minor nature
- C. Each application shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the Grading Plan.

Section 6. Design Requirements.

- A. Grading, erosion control practices, sediment control practices, and waterway crossings shall be adequate to prevent transportation of sediment from the site to the satisfaction of the City. Cut and fill slopes shall be no greater than 3:1 (3' horizontal for every 1' vertical), except as approved by the City to meet other community or environmental objectives.
- B. Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with this Code. Clearing techniques that retain natural vegetation and drainage patterns shall be used to the satisfaction of the City.
- C. Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
- D. Erosion control requirements shall include the following:
 1. Soil stabilization shall be completed within 14 days of clearing or inactivity in construction.
 2. If seeding or another vegetative erosion control method is used, it shall become established within two weeks or the City may require the site to be reseeded or a non-vegetative option employed.
- E. Special techniques on steep slopes or in drainage ways shall be used to ensure stabilization.
- F. Soil stockpiles must be stabilized or covered at the end of each workday.
- G. The entire site must be stabilized, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of construction.

H. Techniques shall be employed to prevent the blowing of dust or sediment from the site.

I. Techniques that divert upland runoff past disturbed slopes shall be employed.

J. Sediment controls requirements shall include:

1. Settling basins, sediment traps, or tanks and perimeter controls.
2. Settling basins that are designed in a manner that allows adaptation to provide long term storm water management, if required by ADEQ.
3. Protection for adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls

K. Waterway and watercourse protection requirements shall include:

1. A temporary stream crossing installed and approved by the US Army Corp of Engineers if a wet watercourse will be crossed regularly during construction.
2. Stabilization of the watercourse channel before, during, and after any in-channel work.
3. Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels

L. Construction site access requirements shall include:

1. A temporary access road provided at all sites.
2. Other measures required by the City in order to ensure that sediment is not tracked onto public streets by construction vehicles or washed into storm drains

Section 7. Inspection.

The permittee or his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved Grading Plan(s). The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures.

Section 8. Enforcement.

A. Stop-Work Order; Revocation of Permit - in the event that any person holding a grading permit pursuant to this ordinance violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially

detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City may suspend or revoke the grading permit.

B. Violation and Penalties - no person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this ordinance. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this ordinance is committed, continued, or permitted, shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine of not more than \$ 250.00 for each offense. Each day a violation is allowed to exist shall constitute a separate offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this ordinance shall be required to bear the expense of such restoration.

Section 12. Employment At Will.

Nothing contained in this Ordinance, or any other regulations or codes adopted hereby, shall in any way alter or affect the "employment at will" status of all employees of the City of Elm Springs, including any and all employees who will apply and administer these regulations.

Section 13. Severability.

If any court of competent jurisdiction finds that any section, clause, sentence, or phrase of this ordinance is invalid or unconstitutional, such portion shall be severed from this ordinance, as if it were never contained herein, and that finding shall in no way affect the validity of the remaining portions of this ordinance.

PASSED AND APPROVED this 18 day of February, 2008

APPROVED

Jane Waters
Mayor Jane Waters

ATTEST

Glenda Pettus
Glenda Pettus, City Clerk

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Glenda Lettub, do solemnly swear, that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2008-02 (the "Making of Land Alteration Ordinance") was, on the 5 day of March, 2008, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 5 day of March, 2008.

Mayor

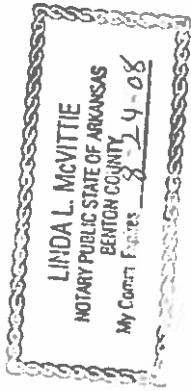
Glenda Lettub
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 5 Day of March, 2008.

Linda L. McVittie
Notary Public

My Commission Expires: 8-24-08



ORDINANCE NO. 2008-11

CITY OF ELM SPRINGS, WASHINGTON COUNTY, ARKANSAS

**AN ORDINANCE TO ESTABLISH A
NEW SEWER TAP FEE
AND DECLARING AN EMERGENCY**

WHEREAS, the City Council of Elm Springs, Arkansas deems it necessary because of rising costs to establish a new sewer tap fee,

WHEREAS, the Elm Springs Sewer Committee has determined after lengthy study that rising costs have dictated that a new tap fee be established,

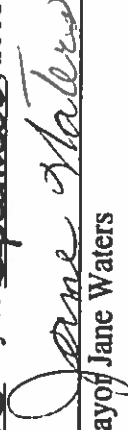
NOW, THEREFORE, BE IT ORDAINED, BY THE CITY COUNCIL OF THE CITY OF ELM SPRINGS, ARKANSAS, IN REGULAR SESSION ASSEMBLED AS FOLLOWS:

The new R-1 and R-1A residential tap fee shall be established at the rate of nine hundred and fifty dollars (\$950.00). Commercial fees shall be no less than \$950.00 and shall cover all expenses over \$950.00 for establishing the sewer tap. This fee becomes effective upon the date of approval as noted below and supercedes all previous tap fee ordinances and charges.

EMERGENCY CLAUSE; Because the existing regulation governing Zoning Districts does not provide for reduced lot sizes; and because the health and welfare of residents are affected by the absence of said R-1A zoning district, it is hereby declared that an emergency exists and that this ordinance being necessary for the preservation of health and welfare of the citizens of the City of Elm Springs, Arkansas shall become effective immediately upon its passage, approval and publication.

PASSED AND APPROVED this 15 day of September, 2008

APPROVED


Mayor Jane Waters

ATTEST


Glenda Pettus, City Clerk/ Recorder

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Jane Waters and Denise Letts, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2008-11 (the "Sever Sep Fee Ordinance") was, on the 24 day of September, 2008, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 24 day of September, 2008.

Jane Waters
Mayor

Denise Letts
City Clerk

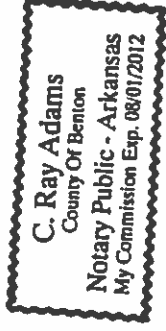
(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 24
Day of Sept, 2008.

C. Ray Adams
Notary Public

My Commission Expires:

08/01/2012



ORDINANCE NO. 2012 - 06

BE IT ENACTED BY THE CITY COUNCIL OF ELM SPRINGS, COUNTY OF WASHINGTON, STATE OF ARKANSAS

AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE AMENDING ORDINANCE NO. 2005-02 REGARDING SEWER CAPACITY CHARGE IN THE CITY OF ELM SPRINGS, AR


WHEREAS, the City of Elm Springs, Arkansas deems it necessary to amend Ordinance No. 2005-02 which authorizes the collection of a Capacity Charge to be assessed at the time a building permit is issued.

NOW, therefore, Be it ordained by the City Council of the City of Elm Springs, Arkansas, as follows:

That the City of Elm Springs, Arkansas authorizes the assessment of a Capacity Charge of \$2000.00 at the time the Building and/or the Sewer Permit is issued.

WHEREAS, it is declared by the City Council that an emergency exists being necessary to the expansion of the sewer system and this ordinance shall be and is effective from the date of its passage.

Passed and approved this 19 day of November 2012


Ben Wall, Mayor


City of Elm Springs Clerk

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Ben Wall and Denise Lettes, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2012-06 (the "Amendatory City Ordinance") was, on the 19 day of November, 2012, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 21 day of November, 2012

Ben Wall
Mayor

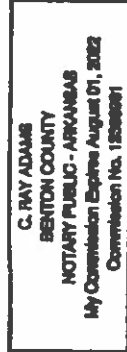
Denise Lettes
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 21 Day of November, 2012.

C. Ray Adams
Notary Public

My Commission Expires: 8/01/2022



ORDINANCE NO. 2013-04

AN ORDINANCE AMENDING ORDINANCE 2006-03, SECTION 1, SEPTIC TANK REGULATIONS FOR THE CITY OF ELM SPRINGS, ARKANSAS, AND DECLARING AN EMERGENCY

WHEREAS, on March 18, 2013, the City Council of the City of Elm Springs, on recommendation of the Sewer Committee, adopted Septic Tank Regulations;

WHEREAS, the Sewer Committee has now recommended an amendment to the regulations, to allow for the use of concrete tanks in addition to fiberglass tanks.

NOW, THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Elm Springs:

Section 1: The Septic Tank Requirements, as passed by the City of Elm Springs, are hereby amended to allow the use of concrete tanks in addition to the use of fiberglass tanks for installation in Elm Springs. Said tanks shall be purchased and installed through the City of Elm Springs. A copy of this Ordinance shall be attached to the existing regulations.

Section 2: All other parts of the previous adopted ordinance and tank regulations shall remain in full force and effect.

Section 3: This Ordinance shall take effect and be in force and effect from and after its passage, and that this Ordinance supercedes and replaces any other Ordinances in conflict herewith. In the event any one or more of the provisions contained in this Ordinance shall for any reason be held by a Court of Law to be held by a Court of Law to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this Ordinance, and this Ordinance shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

Section 4: Emergency Clause. It has been found and hereby is declared by the City Council that this Ordinance is immediately required for the proper functioning of the City government, and to promote the welfare of its citizens. Therefore, an emergency is hereby declared to exist and this Ordinance being necessary for the preservation of the orderly development of the City and for the health and safety of its citizens shall be in full force and effect from the date of its passage and approval.

PASSED AND APPROVED this 18 day of March, 2013

Ben Wall
Mayor, Ben Wall

ATTEST:
Glenda Pettus
Glenda Pettus, City Clerk

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Ben Wall and Glenda Letten, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2013-04 (the "Amend 2006-03, Septic Tank Ordinance") was, on the day of , 2013, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 21 day of March, 2013.

Ben Wall
Mayor

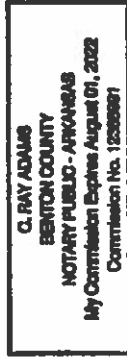
Glenda Letten
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 21 Day of March, 2013.

C. Ray Adams
Notary Public

My Commission Expires: 08/01/22



ORDINANCE NO. 2013-06

AN ORDINANCE ACCEPTING A LOWER INTEREST RATE IN CONNECTION WITH SEWER REVENUE BOND OWNED BY THE ARKANSAS NATURAL RESOURCES COMMISSION; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Elm Springs, Arkansas (the "City") has previously issued its Sewer Revenue Bond, dated September 1, 2005 (the "Bond"), which is owned by the Arkansas Natural Resources Commission (the "Commission") pursuant to a Memorandum of Agreement between the City and the Commission; and

WHEREAS, the Commission desires to lower the interest rate on the Bond, in order to assist the City

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Elm Springs, Arkansas:

Section 1. That the City accepts the offer of the Commission to reduce the interest rate on the Bond from 5.40% per annum to 4.00% per annum, effective June 1, 2013.

Section 2. That the Mayor and City Recorder are hereby authorized to execute all documents, certificates and instruments necessary to accomplish the intent of this Ordinance, including particularly, without limitation, any filings with the Internal Revenue Service and any amendments to the Bond.

Section 3. That the Mayor and other representatives of the City are hereby authorized to adopt and implement a post-issuance compliance policy in order to assist the City in complying with federal tax laws if such policy is necessary.

Section 4. That the provisions of this Ordinance are hereby declared to be separable, and if any provision shall for any reason be held illegal or invalid, it shall not affect the validity of the remainder of this Ordinance.

Section 5. That all ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. That it is hereby ascertained and declared that the interest rate on the Bond should be lowered as soon as possible in order to lower the interest cost on obligations of the City's sewer system. It is therefore declared that an emergency exists and this Ordinance being necessary for the preservation of the public peace, health and safety shall be in force and take effect immediately upon and after its passage.

ADOPTED: May 20, 2013.

APPROVED:

Ben Wall
Mayor

ATTEST:

Wanda Pettis
City Recorder

(SEAL)

CERTIFICATE

The undersigned, City Recorder of the City of Elm Springs, Arkansas (the "City"), hereby certifies that the foregoing pages are a true and correct copy of Ordinance No. 2013-06, adopted at a Regular session of the City Council of the City, held at the regular meeting place of the City Council of the City at 6:30 p.m., on the 20 day of May, 2013.

GIVEN under my hand and seal this 20 day of May, 2013.

Denka Dells
City Recorder

(SEAL)

ORDINANCE NO. 2013- 10

AN ORDINANCE AMENDING ORDINANCE NO. 2012-06
REGARDING SEWER CAPACITY CHARGE IN THE CITY OF ELM SPRINGS, AR

WHEREAS, the City of Elm Springs by the Elm Springs, Arkansas deems it necessary to amend Ordinance No. 2012-06 which authorizes the collection of a Capacity Charge to be assessed at the time a Building and/or the Sewer permit is issued.


NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Elm Springs, as follows:

That the City of Elm Springs, Arkansas eliminates the assessment of a Capacity Fee of \$2000.00 at the time the Building and/or the Sewer Permit is issued.

EMERGENCY CLAUSE, it is declared by the City Council that an emergency exists being necessary to the expansion of the sewer system and this ordinance shall be and is effective from the date of its passage.

PASSED AND APPROVED this 21 day of October, 2013.

APPROVED:


Ben Wall, Mayor

ATTEST:


Glenda Pettus, City Clerk/Recorder

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Ben Wall and Donda Pettus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2013-10 (the "Sewer Capacity Amendment Ordinance") was, on the 4 day of December, 2013, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

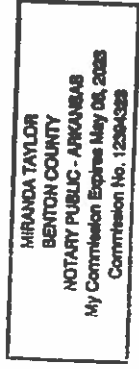
DATED this 4 day of December, 2013.

Mayor

Donda Pettus
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 4 Day of December, 2013.



Miranda Taylor
Notary Public

My Commission Expires:

May 4, 2018

ORDINANCE NO. 2015-02

CITY OF ELM SPRINGS, ARKANSAS

**AN ORDINANCE TO AMEND THE RULES AND REGULATIONS
FOR CONNECTING TO SEWER IN ELM SPRINGS, ARKANSAS,
AND FOR OTHER PURPOSES**

WHEREAS, after much study, discussion and consideration of the current situation with the Elm Springs sewer plant, and in consideration of anticipated residential growth, the Sewer Committee has recommended that the City Council amend the rules and regulations which mandate connection to the sewer system upon failure or repair of an existing residential septic tank system within city limits; and,

WHEREAS, the City Council has been advised that the remaining capacity of the sewer system should be preserved to address anticipated development of residential lots which have been platted too small to accommodate septic systems, and therefore will have to be connected to the sewer system; and,

WHEREAS, in order to preserve the ability to accommodate residential development which is reasonably foreseeable and to most efficiently and effectively manage and allocate the limited resources currently available for sewer treatment in Elm Springs, the City Council agrees that the current mandate should be altered.

THEREFORE, BE IT ORDAINED:

Section 1. The requirement that structures which currently utilize septic systems connect to the Elm Springs sewer system is suspended. Structures in Elm Springs which currently utilize septic systems may continue to do so, until the Elm Springs City Council reinstates the sewer connection requirement. All structures which utilize septic systems must comply with all applicable laws, rules and regulations of the State of Arkansas, including, but not limited to Arkansas Department of Health Regulations.

Section 2. If an existing septic system in Elm Springs requires repair or replacement, the owner of the structure may connect to the Elm Springs sewer system, or, the owner may repair or replace the existing septic system, provided that, if a septic tank replacement is required, a tank compliant with the Elm Springs sewer system, as provided for in Elm Springs ordinances and as determined by the Elm Springs utility or sewer director, must be installed, so that future connection to the Elm Springs sewer system can be made. If the location of the structure which requires a new septic tank is beyond the area which is served by the Elm Springs sewer system, then an Elm Springs sewer system compliant tank shall not be required. This determination shall be made by the Elm Springs utility or sewer director, in consultation with the Elm Springs Sewer Committee.

Section 3. If at any time a determination is made by the Arkansas Department of Health and the Elm Springs utility or sewer department that a septic system is not permissible to serve a structure in the City of Elm Springs, then that structure shall be required to connect to the Elm Springs sewer system.

Section 4. This ordinance is intended to alter the current sewer Elm Springs sewer system hookup requirement, and all previous ordinances in conflict herewith are hereby repealed to the extent of the conflict, and if any portion of this ordinance is declared invalid for any reason, then that part shall be considered severed herefrom, and the remaining part of this ordinance shall continue in full force and effect.

PASSED THIS 19 DAY OF January, 2015

APPROVED:



Harold Douthit, Mayor

ATTEST:


Gladys Pettus, City Clerk

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Harold Dackitt and Glenda Petrus, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2015-02 (the "Spicer Amendment Ordinance") was, on the 20 day of January, 2015, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

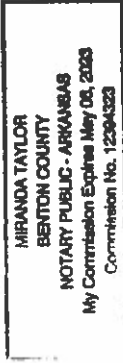
DATED this 20 day of January, 2015.

Harold Dackitt
Mayor

Glenda Petrus
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 20th day of January, 2015.



Miranda Taylor
Notary Public

My Commission Expires:

May 6, 2023

ORDINANCE NO. 2015- 04

AN ORDINANCE ADOPTING
REVISED SEPTIC TANK REGULATIONS FOR THE
CITY OF ELM SPRINGS, ARKANSAS,
AND DECLARING AN EMERGENCY

WHEREAS, the Sewer Committee for the City of Elm Springs has adopted Revised Septic Tank Regulations and recommends their adoption by this Council; and,

WHEREAS, the adoption and application of these regulations is vital to the continuing sewer project and the health and safety of the citizens of Elm Springs, Arkansas.

NOW, THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Elm Springs:

Section 1: The Septic Tank Requirements, as passed by the City of Elm Springs Sewer Committee, which are attached hereto are hereby adopted and shall apply to the installation of all septic systems within the City of Elm Springs. No builder or developer shall receive a permit for further construction until all construction is fully compliant with this ordinance.

Section 2: Enforcement. Any violation of this ordinance shall be considered a misdemeanor, and shall be punishable with a fine of forty dollars (\$40.00) for the offense, and thirty dollars (\$30.00) per day for each subsequent day of violation.

Section 3. This Ordinance shall take effect and be in force and effect from and after its passage, and that this Ordinance supercedes and replaces any other Ordinances in conflict herewith. In the event any one or more of the provisions contained in this Ordinance shall for any reason be held by a Court of Law to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this Ordinance, and this Ordinance shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

Section 4: Emergency Clause. It has been found and hereby is declared by the City Council that the revisions to the regulations, and the regulations adopted hereby are vital to protect the health of citizens, and protect the environment. Therefore, an emergency is hereby declared to exist and this ordinance being necessary for the preservation of the orderly development of the City and for the health and safety of its citizens shall be in full force and effect from the date of its passage and approval.

PASSED AND APPROVED this 13 day of April, 2015.



Harold Douthit, Mayor

Attest:

Glenda Pettus, City Clerk

CITY OF ELM SPRINGS
SEWER COMMITTEE

SEPTIC TANK REQUIREMENTS

Revised April 20, 2015

This regulation is to condense and clarify the City's ordinance adopting specifications for the STEP septic tanks, their installation and set penalties for noncompliance with the ordinance. The Arkansas State Health Department approved Standard Sewer Specifications for construction of the Elm Springs Wastewater Systems, ADH approval dated December 31, 2002. Project#32568-2, shall govern in all questions or conflicts of this condensed ordinance. Any copy of these rules shall be attached to each building permit issued by the City, and a copy signed by the applicant retained by the building inspector.

All septic system designs shall be submitted to the City Inspector for approval before they are released by the Designated Representatives for construction. The City Inspector, acting representative of the Sewer Committee shall sign off on the design. The installer shall notify the City Inspector at least 24 hours prior to installing the tank and shall not backfill before inspection. See attached sketches for dimensions.

All septic tanks installed after October 1, 2001 must be totally compatible with adoption for the STEP system. These tanks shall be connected to the STEP System as soon as the system is operational. The specific requirements are as follows:

1. All septic tanks shall follow and be designed in accordance with current State of Arkansas and Arkansas Health Department guidelines, regulations and rules regarding appropriate tank size per dwelling.
2. All tanks shall be structurally sound and watertight and shall be guaranteed in writing by the tank manufacturer for a period of two years from the date of final acceptance.
3. All tanks shall have an access opening of 20" in diameter.
4. The inlet tee shall penetrate the liquid at least 18" below the inlet flow line and shall allow for natural ventilation through the building sewer and vent stack.
5. Only concrete and fiberglass tanks are approved for use at the present time.
6. The following requirements apply to concrete septic tanks.
 - a. The bottom slab and walls shall be poured monolithically.
 - b. All Components of the tanks shall be reinforced with ASTM A-615 Grade 60 steel.
 - c. Concrete shall have a content of no less than 6 bags per cubic yard and reach a minimum compressive strength of 4000 PSI at 28 days.
 - d. Tanks shall be watertight, with a waterproofing additive added at the time of batching equal to XYPEX ADMIX C-1000. It may be protected inside and outside by an approved waterproof coating.
 - e. Tanks must cure at least 7 days before delivery to the installation site.
 - f. The tanks shall be manufactured and furnished with access openings as required by the Oranco STEP system.
 - g. The top shall be sealed to the tank with a preformed flexible plastic gasket.

h. It cannot be overemphasized that the septic tanks and its appurtenances must be watertight.

i. The manufacturer's warranty must certify water-tightness for the two year period specified in item 2 above. Tanks suspected of not being watertight may be subject to testing at the owner/installer's expense.

7. Fiberglass tanks shall conform to the specifications as adopted and approved by Orenco Systems.

8. Installation shall be in accordance with the manufacturer's recommendations.

9. Risers and lids shall be installed according to the manufacturer's instructions.

The tank shall be installed so that the riser top is flush with the finished grade.

All tanks shall be bedded in washed graded gravel, finished 80 inches below desired final surface grade.

10. All installations must have a dedicated easement as specified by the Sewer Committee from the inlet of the septic tank to the collection facilities. The easement shall be properly executed and signed before final acceptance of the installation.

11. Each installation shall have a 30 Amp, 120 Volt circuit available on the exterior of the building adjacent to the tank riser installation.

12. The pump shall be specified Orenco pump with the approved Orenco Systems control panel Model SIROETMCT. The panel shall be set at eye level (5 to 6 ft.) within sight of the tank on the building outside wall or as approved. Care should be taken not to put the panel on the exterior wall of a noise sensitive room such as a bedroom.

After the STEP system is operational and when all requirements for an installation are met, the City will assume ownership, operation and maintenance responsibilities from the inlet of the septic tank to the core collection system.

Any installation that does not comply with the above requirements and the City's adopted ordinance concerning STEP septic systems shall not pass the plumbing inspection by the City Inspector until brought into compliance. In addition, any builder, plumber for further construction within the City of Elm Springs until all construction complies with STEP System requirements. Any noncompliant system shall be brought into compliance before final inspection. A fine of \$40.00 plus \$30.00 for each subsequent day thereafter shall be levied against the permit applicant.

Applicant: _____

Date: _____

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, David D. Pitt and Gloria Pittis, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 21354 (the "Amended Park Ordinance") was, on the 21 day of April, 2015, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 61-19 and that the Ordinance remained posted for thirty (30) days.

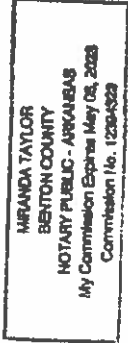
DATED this 21 day of April, 2015.

David D. Pittis
Mayor

Mike Pittis
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 21 Day of April, 2015.



Miranda Taylor
Notary Public

My Commission Expires:
May 08, 2023

ORDINANCE NO. 2015- 05

**AN ORDINANCE AMENDING THE ADOPTED,
REVISED SEPTIC TANK REGULATIONS FOR THE
CITY OF ELM SPRINGS, ARKANSAS,
AND DECLARING AN EMERGENCY**

WHEREAS, the Sewer Committee for the City of Elm Springs has amended the previously adopted, Revised Septic Tank Regulations, and recommends their adoption by this Council; and,

WHEREAS, the adoption and application of these regulations is important to the continuing sewer project and efficient operation of the Elm Springs Sewer system.

NOW, THEREFORE, BE IT HEREBY ORDAINED by the City Council of the City of Elm Springs:

Section 1: The revised Septic Tank Requirements, as adopted by the Elm Springs Sewer Committee and passed by the City of Elm Springs Sewer Committee, which are attached hereto are hereby adopted and shall apply to the installation of all septic systems within the City of Elm Springs. No builder or developer shall receive a permit for further construction until all construction is fully compliant with this ordinance.

Section 3. This Ordinance, which amends the previously adopted sewer tank regulations only, shall take effect and be in force and effect from and after its passage, and that this Ordinance supercedes and replaces any other Ordinances in conflict herewith. In the event any one or more of the provisions contained in this Ordinance shall for any reason be held by a Court of Law to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this Ordinance, and this Ordinance shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained herein.

Section 4: Emergency Clause. It has been found and hereby is declared by the City Council that amendment to the adopted regulations, are important to protect the health of citizens and promote the most consistent, fair and efficient operation of the Elm Springs sewer system. Therefore, an emergency is hereby declared to exist and this ordinance being necessary for the preservation of the orderly development of the City and for the health and safety of its citizens shall be in full force and effect from the date of its passage and approval.

PASSED AND APPROVED this 18 day of May, 2015.



Harold Douthit, Mayor

Attest:


Glenda Pettus, City Clerk

CITY OF ELM SPRINGS
SEWER COMMITTEE

SEPTIC TANK REQUIREMENTS
Revised May 18, 2015

This regulation is to condense and clarify the City's ordinance adopting specifications for the STEP septic tanks, their installation and set penalties for noncompliance with the ordinance. The Arkansas State Health Department approved Standard Sewer Specifications for construction of the Elm Springs Wastewater Systems, ADH approval dated December 31, 2002, Project#32568-2, shall govern in all questions or conflicts of this condensed ordinance. Any copy of these rules shall be attached to each building permit issued by the City, and a copy signed by the applicant retained by the building inspector.

All septic system designs shall be submitted to the City Inspector for approval before they are released by the Designated Representatives for construction. The City Inspector, acting representative of the Sewer Committee shall sign off on the design. The installer shall notify the City Inspector at least 24 hours prior to installing the tank and shall not backfill before inspection. See attached sketches for dimensions.

All septic tanks installed after October 1, 2001 must be totally compatible with adoption for the STEP system. These tanks shall be connected to the STEP System as soon as the system is operational. The specific requirements are as follows:

1. All septic tanks shall follow and be designed in accordance with current State of Arkansas and Arkansas Health Department guidelines, regulations and rules regarding appropriate tank size per dwelling.
2. All tanks shall be structurally sound and watertight and shall be guaranteed in writing by the tank manufacturer for a period of two years from the date of final acceptance.
3. All tanks shall have an access opening of 20" in diameter.
4. The inlet tee shall penetrate the liquid at least 18" below the inlet flow line and shall allow for natural ventilation through the building sewer and vent stack.
5. Only concrete and fiberglass tanks are approved for use at the present time.
6. The following requirements apply to concrete septic tanks.
 - a. The bottom slab and walls shall be poured monolithically.
 - b. All Components of the tanks shall be reinforced with ASTM A-615 Grade 60 steel.
 - c. Concrete shall have a content of no less than 6 bags per cubic yard and reach a minimum compressive strength of 4000 PSI at 28 days.
 - d. Tanks shall be watertight, with a waterproofing additive added at the time of batching equal to XYPEX ADMIX C-1000. It may be protected inside and outside by an approved waterproof coating.
 - e. Tanks must cure at least 7 days before delivery to the installation site.
 - f. The tanks shall be manufactured and furnished with access openings as required by the Orenco STEP system.
 - g. The top shall be sealed to the tank with a preformed flexible plastic gasket.

h. It cannot be overemphasized that the septic tanks and its appurtenances must be watertight.

i. The manufacturer's warranty must certify water-tightness for the two year period specified in item 2 above. Tanks suspected of not being watertight may be subject to testing at the owner installer's expense.

7. Fiberglass tanks shall conform to the specifications as adopted and approved by Orenco Systems.

8. Installation shall be in accordance with the manufacturer's recommendations.

9. Risers and lids shall be installed according to the manufacturer's instructions.

The tank shall be installed so that the rider top is flush with the finished grade.

All tanks shall be bedded in washed graded gravel, finished 80 inches below desired final surface grade.

10. All installations must have a dedicated casement as specified by the Sewer Committee from the inlet of the septic tank to the collection facilities. The easement shall be properly executed and signed before final acceptance of the installation.

11. Each installation shall have a 30 Amp, 120 Volt circuit available on the exterior of the building adjacent to the tank riser installation.

12. The pump shall be specified Orenco pump with the approved Orenco Systems control panel Model SIROETMCT. The panel shall be set at eye level (5 to 6 ft.) within sight of the tank on the building outside wall or as approved. Care should be taken not to put the panel on the exterior wall of a noise sensitive room such as a bedroom.

Any installation that does not comply with the above requirements and the City's adopted ordinance concerning STEP septic systems shall not pass the plumbing inspection by the City Inspector until brought into compliance. In addition, any builder, plumber for further construction within the City of Elm Springs until all construction complies with STEP System requirements. Any noncompliant system shall be brought into compliance before final inspection. A fine of \$40.00 plus \$30.00 for each subsequent day thereafter shall be levied against the permit applicant.

Applicant: _____

Date: _____

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Robert D. W. W. W. W. and James P. W. W. W., do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2015-05 (the "Kansas State Highway Ordinance") was, on the 19 day of May, 2015, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 61-19 and that the Ordinance remained posted for thirty (30) days.

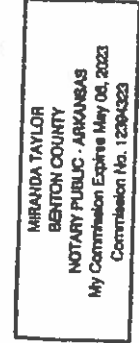
DATED this 19 day of May, 2015.

Robert D. W. W. W.
Mayor

James P. W. W. W.
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 19 Day of May, 2015.



Miranda Taylor
Notary Public

My Commission Expires:
May 6, 2023

ORDINANCE NO. 2016- 02

CITY OF ELM SPRINGS, ARKANSAS

AN ORDINANCE REINSTATING AND AMENDING ORDINANCE NO. 2012-06 REGARDING SEWER CAPACITY CHARGE IN THE CITY OF ELM SPRINGS, AR

WHEREAS, on February 21, 2005, the City Council of the City of Elm Springs, Arkansas, adopted Ordinance No. 2005-02 establishing an assessment of a Capacity Charge of \$2,000.00 at the time the Building and/or Sewer Permit is issued; and

WHEREAS, on October 21, 2013, the City Council of the City of Elm Springs, Arkansas, adopted Ordinance No. 2013-10 to eliminate the assessment of a Capacity Fee of \$2,000 at the time the Building and/or Sewer permit is issued; and

WHEREAS, the City Council of Elm Springs, Arkansas has determined that due to increased sewer maintenance, capacity and growth that the assessment fee shall be increased to \$2,500.00 to meet the demand; and

WHEREAS, it is in the best interest of the City of Elm Springs, Arkansas to amend and reinstate Ordinance No. 2012-06 which authorizes the collection of a Capacity Charge to be assessed at the time the Building and/or the Sewer permit is issued

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Elm Springs, as follows:

Section 1: That the City of Elm Springs, Arkansas shall reinstate and increase the assessment of a Capacity Fee to \$2,500.00 at the time a Building and/or the Sewer Permit is issued.

Section 2: Emergency Clause: it is declared by the City Council that an emergency exists, it being necessary to immediately address the continued operation and maintenance of the sewer system and this ordinance shall be and is effective from the date of its passage.

PASSED AND APPROVED this 21 day of April, 2016.

APPROVED:


Harold Douthit, Mayor

ATTEST:


Glenda Pettus, City Clerk/Recorder

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, David Douthett and Glenn Patton, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 216-03 (the "Amend 3rd Ordinance") was, on the 22 day of April, 2016, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 22 day of April, 2016.

David D. Patton
Mayor

Glenn Patton
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 22nd Day of April, 2016.

Miranda Taylor
Notary Public

My Commission Expires:

May 16, 2023



ORDINANCE NO. 2016-04

CITY OF ELM SPRINGS, ARKANSAS

AN ORDINANCE TO AMEND THE RULES AND REGULATIONS FOR CONNECTING TO SEWER IN ELM SPRINGS, ARKANSAS, AND FOR OTHER PURPOSES.

WHEREAS, the City Council has determined that the onset of growth and development has made it necessary to amend the sewer connection rules and regulations; and,

WHEREAS, after much study, discussion and consideration of the current situation with the Elm Springs sewer plant, and in consideration of anticipated residential growth, the Sewer Committee has recommended that the City Council amend the rules and regulations which mandate connection to the sewer system upon failure or repair of an existing residential septic tank system within city limits; and,

WHEREAS, the City Council has been advised that the remaining capacity of the sewer system should be preserved to address anticipated development of residential lots which have been platted too small to accommodate septic systems, and therefore will have to be connected to the sewer system; and,

WHEREAS, in order to preserve the ability to accommodate residential development which is reasonably foreseeable and to most efficiently and effectively manage and allocate the limited resources currently available for sewer treatment in Elm Springs, the City Council agrees that the current mandate should be altered.

THEREFORE, BE IT ORDAINED:

Section 1. The requirement that structures which currently utilize septic systems connect to the Elm Springs sewer system is suspended. Structures in Elm Springs which currently utilize septic systems may continue to do so, until the Elm Springs City Council reinstates the sewer connection requirement. All structures which utilize septic systems must comply with all applicable laws, rules and regulations of the State of Arkansas, including, but not limited to Arkansas Department of Health Regulations.

Section 2. If an existing septic system in Elm Springs requires repair or replacement, the owner of the structure may connect to the Elm Springs sewer system, or, the owner may repair or replace the existing septic system, provided that, if a septic tank replacement is required, a tank compliant with the Elm Springs sewer system, as provided for in Elm Springs ordinances and as determined by the Elm Springs utility or sewer director, must be installed, so that future connection to the Elm Springs sewer system can be made. This determination shall be made by the Elm Springs utility or sewer director, in consultation with the Elm Springs Sewer Committee.

Section 3. If at any time a determination is made by the Arkansas Department of Health and the Elm Springs utility or sewer department that a septic system is not permissible to serve a structure in the City of Elm Springs, then that structure shall be required to connect to the Elm Springs sewer system.

Section 4. This ordinance is intended to alter the current sewer Elm Springs sewer system hookup requirement, and all previous ordinances in conflict herewith are hereby repealed to the extent of the conflict, and if any portion of this ordinance is declared invalid for any reason, then that part shall be considered severed herefrom, and the remaining part of this ordinance shall continue in full force and effect.

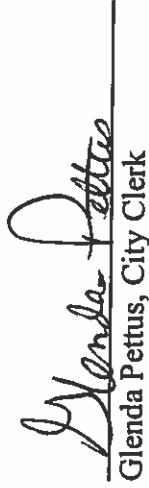
Section 5: The need to address the sewer situation in the City of Elm Springs is acute, and in order to protect the environment, health, safety and welfare of the citizens of Elm Springs, an emergency is declared, and this ordinance shall go into full force and effect immediately upon its passage.

PASSED THIS 21 DAY OF April, 2016

APPROVED:


Harold Douthitt, Mayor

ATTEST:


Glenda Pettus, City Clerk

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Blonde Douthett and Blonde Pitts, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2016-09 (the "Amend Legislators Hoping to Save Ordinance") was, on the 22 day of April, 2016, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

DATED this 22 day of April, 2016.

[Signature]
Mayor

Blonde Pitts
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 22nd Day of April, 2016.

[Signature]
Notary Public

My Commission Expires:

May 6, 2023



ORDINANCE NO. 2017-02

AN ORDINANCE ACCEPTING A LOWER INTEREST RATE IN CONNECTION WITH SEWER REVENUE BOND OWNED BY THE ARKANSAS NATURAL RESOURCES COMMISSION; PRESCRIBING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Elm Springs, Arkansas (the "City") has previously issued its Sewer Revenue Bond, dated September 1, 2005 (the "Bond"), which is owned by the Arkansas Natural Resources Commission (the "Commission") pursuant to a Memorandum of Agreement between the City and the Commission; and

WHEREAS, the Commission previously lowered the interest rate on the Bond from 5.40% to 4.00%, effective June 1, 2013; and

WHEREAS, in order to assist the City, the Commission desires to further lower the interest rate on the Bond;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Elm Springs, Arkansas:

Section 1. That the City accepts the offer of the Commission to reduce the interest rate on the Bond from 4.00% per annum to 2.75% per annum, effective as of December 1, 2016.

Section 2. That the City, in exchange for receiving a lower interest rate on the Bond, agrees not to prepay the Bond prior to June 1, 2027.

Section 3. That the Mayor and City Recorder are hereby authorized to execute all documents, certificates and instruments necessary to accomplish the intent of this Ordinance, including particularly, without limitation, any amendments to the Bond.


Section 4. That the provisions of this Ordinance are hereby declared to be separable, and if any provision shall for any reason be held illegal or invalid, it shall not affect the validity of the remainder of this Ordinance.

Section 5. That all ordinances and parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. That it is hereby ascertained and declared that the interest rate on the Bond should be lowered as soon as possible in order to lower the interest cost on obligations of the City's sewer system. It is therefore declared that an emergency exists and this Ordinance being necessary for the preservation of the public peace, health and safety shall be in force and take effect immediately upon and after its passage.

ADOPTED: April 27, 2017.

APPROVED:


Mayor

ATTEST:


City Recorder

(SEAL)

CERTIFICATE

The undersigned, City Recorder of the City of Elm Springs, Arkansas (the "City"), hereby certifies that the foregoing pages are a true and correct copy of Ordinance No. 2017-03, adopted at a regular session of the City Council of the City, held at the regular meeting place of the City Council of the City at 6:30 p.m., on the 27th day of April, 2017.

GIVEN under my hand and seal this 27th day of April, 2017.

Suzie Taylor
City Recorder

(SEAL)

PROOF OF POSTING OF ORDINANCE

STATE OF ARKANSAS

COUNTY OF Washington

We, Harold Dethit and Quila Taylor, do solemnly swear that as Mayor and City Clerk, respectively, of and for the City of Elm Springs, Washington County, Arkansas that a certified copy of Ordinance No. 2017-02 (the "Accepting Lower District Rate Ordinance") was, on the 27 day of April, 2017, duly posted in five (5) separate and distinct places inside the corporate limits of the City in accordance with Ordinance No. 01-10 and that the Ordinance remained posted for thirty (30) days.

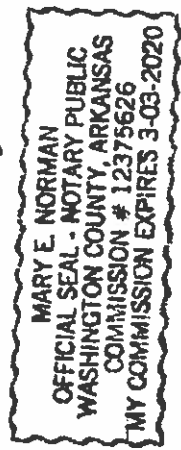
DATED this 27 day of April, 2017.

Harold Dethit
Mayor

Quila Taylor
City Clerk

(SEAL)

SUBSCRIBED AND SWORN to before me, a Notary Public, on this 2 Day of May, 2017.



Mary E. Norman
Notary Public

My Commission Expires:

3.3.20

ORDINANCE NO. 2017-07

AN ORDINANCE ADOPTING A SEWER USE
CODE FOR THE CITY OF ELM SPRINGS, ARKANSAS,
DECLARING AN EMERGENCY AND FOR OTHER PURPOSES.

WHEREAS, A.C.A. §14-55-207 authorizes a municipality to adopt by reference technical codes or regulations without setting forth the provisions of the code; and,

WHEREAS, three copies thereof of the Sewer Use Code are on file in the office of the City Recorder for inspection and view by the public prior to the passage of said Ordinance; and,

WHEREAS, notice to the public by publication in a paper of general circulation within Elm Springs has been given stating that copies of the Sewer Use Code are open for public inspection prior to the passage of this ordinance adopting said code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF ELM SPRINGS, ARKANSAS;

SECTION 1. That the Sewer Use Code attached hereto as Exhibit "A" and made a part hereof is hereby adopted by reference.

SECTION 2. Should any paragraph, section, clause, phrase or part of said Additional Sewer Use Code, for any reason, be held invalid, such invalidity shall not affect the validity of the remaining provisions of said Sewer Use Code and the application of those provisions to any person or circumstance shall not be affected thereby.


SECTION 3. All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this Ordinance, are hereby repealed to the extent of the inconsistency or conflict.

SECTION 4. This Ordinance being necessary for the preservation of the health, safety and welfare of the residents of the City of Elm Springs, and being needed for the protection of the citizens, it is hereby declared that an emergency exists and this Ordinance shall become effective immediately upon its passage, approval and publication.

PASSED AND APPROVED this 28 day of September, 2017.

By: 
Harold Douthitt, Mayor

ATTEST:

By: 
Twila Taylor, Recorder

SEWER USE CODE

I. GENERAL PROVISIONS.

A. PURPOSE. This Code sets forth standards and requirements for users of the Publicly Owned Treatment Works (POTW) for the City of Springdale, Arkansas, and enables the Control Authority to comply with all applicable Federal and State laws, including the Clean Water Act (33 U.S.C. 1251 et seq.) and the General Pretreatment Regulations (40 C.F.R. Part 403). The objectives of this Code are:

(1) To prevent the introduction of pollutants into the POTW that will interfere

with its operation or contaminate its resulting biosolids (sludge);

(2) To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;

(3) To protect both POTW personnel who may be affected by wastewater and biosolids (sludge) in the course of their employment and the general public;

(4) To improve opportunities for reuse and recycling of wastewater and biosolids (sludge) from the POTW;

(5) To enable the City to comply with its National Pollutant Discharge Elimination System permit conditions, biosolids (sludge) use and disposal requirements, and any other Federal or State laws to which the POTW is subject;

(6) To provide for penalties for violations of the regulations established herein;

and

(7) To promote the implementation of pollution prevention practices by users of the POTW.

This Code authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; and requires user reporting.

B. APPLICABILITY. This Code shall apply to all users of the POTW.

C. ADMINISTRATION. Except as otherwise provided herein, the Control Authority, as defined in this Code, shall administer, implement, and enforce the provisions of this Code. Any powers granted to or duties imposed upon the Control Authority may be delegated by the Control Authority to its authorized representative.

D. ABBREVIATIONS. The following abbreviations shall have the designated meanings:

ADPC&E	-	Arkansas Department of Pollution Control & Ecology
BOD	-	Biochemical Oxygen Demand
C.F.R.-	-	Code of Federal Regulations
EPA	-	U.S. Environmental Protection Agency
gpd	-	gallons per day
mg/L	-	milligrams per liter

- NPDES - National Pollutant Discharge Elimination System
- POTW- Publicly Owned Treatment Works
- RCRA - Resource Conservation and Recovery Act
- TSS - Total Suspended Solids
- U.S.C.- United States Code

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

ACT OR "THE ACT". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 *et seq.*

APPROVAL AUTHORITY. The State of Arkansas or the State Industrial Pretreatment Coordinator.

AUTHORIZED REPRESENTATIVE/SIGNATORY 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 operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million, if 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 his/her designee;

(4) The individuals described in paragraphs 1 through 3 above may designate another authorized representative if the authorization:

- (a) Is in writing;
- (b) 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;
- (c) The written authorization is submitted to the Control Authority.

BIOCHEMICAL OXYGEN DEMAND (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration in milligrams per liter (mg/L).

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

BUILDING SEWER. The extension from the building drain to the public sewer or other place of disposal.

CATEGORICAL PRETREATMENT STANDARD OR

CATEGORICAL STANDARD. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of users and which appear in 40 C.F.R. Chapter I, Subchapter N, Parts 405-471.

CITY BUILDING INSPECTOR. That person or his/her delegated representative employed by the City of Springdale, Arkansas, whose responsibility is to enforce compliance within the City's planning area of all building codes.

COMPOSITE SAMPLE. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time, as specified by the Control Authority.

CONTROL AUTHORITY. The Springdale Water & Sewer Commission. The Commission may delegate its powers to its authorized representative, and to the extent it does, this definition shall include any designated representative.

ENVIRONMENTAL PROTECTION AGENCY (EPA). The U.S. Environmental Protection Agency or its authorized representative.

EXISTING SOURCE. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

GARBAGE. Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

GRAB SAMPLE. An individual sample collected over a period of time not to exceed (15) minutes.

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

INDUSTRIAL USER. A user that discharges nondomestic wastewater into the POTW.

INDUSTRIAL WASTES. The liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

INSTANTANEOUS MAXIMUM ALLOWABLE DISCHARGE LIMIT. The maximum concentration of a pollutant allowed to be discharged at any time, determined

from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

INTERFERENCE A discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the POTW, its treatment processes or operations, or its biosolids (sludge) processes, use, or disposal. Such discharges include but are not limited to discharges which cause a violation of the City of Springdale, Arkansas' NPDES permit or the prevention of biosolids (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 biosolids (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.

MAY. Discretionary or permissive.

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.

NATURAL OUTLET. Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT. A permit issued to a POTW or other discharger pursuant to Section 402 of the Act.

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 which 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 above but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source as defined herein 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.

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

PASS THROUGH. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of or has the potential to cause a violation of any requirement of the Control Authority's NPDES permit (including an increase in the magnitude or duration of a violation).

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

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

POLLUTANT. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, biosolids (sludge), munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and certain characteristics of the wastewater [e.g., pH, TSS, turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity, or odor].

PRETREATMENT. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means (except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard).

PRETREATMENT REQUIREMENTS. Any substantive or procedural requirement, other than a pretreatment standard, related to pretreatment and imposed on a user.

PRETREATMENT STANDARDS OR STANDARDS. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

PROHIBITED DISCHARGE STANDARDS OR PROHIBITED DISCHARGES. Prohibitions against the discharge of certain substances; these prohibitions appear in this Code.

PUBLIC SEWER. Shall mean a sewer in which all owners of abutting properties have equal rights, and is owned and operated by the Control Authority.

PUBLICLY OWNED TREATMENT WORKS (POTW). A "treatment works," as defined by Section 212 of the Act (33 U.S.C. 1292) which is owned by the Control Authority. 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.

SANITARY SEWER. A sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

SEPTIC TANK WASTE. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

SEWAGE. 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.

SEWAGE TREATMENT PLANT. Any arrangement of devices and structures used for treating sewage.

SEWAGE WORKS. All facilities for collecting, pumping, treating, and disposing of sewage.

SEWER. A pipe or conduit for carrying sewage.

SHALL. Mandatory.

SIGNIFICANT INDUSTRIAL USER.

- (1) A user subject to categorical pretreatment standards; or
- (2) A user that:
 - (a) Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater); or
 - (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 Control Authority 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 (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Control Authority may at any time, on its own initiative or in response to a petition received from a user [and in accordance with procedures in 40 C.F.R. 403.8(f)(6)] determine that such user should not be considered a significant industrial user.

SLUG LOAD OR SLUG. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in this Code or any discharge of a nonroutine, episodic nature, including but not limited to, an accidental spill or a noncustomary batch discharge.

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

STATE. State of Arkansas.

STORM DRAIN. (sometimes termed "storm sewer") A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

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

TOTAL SUSPENDED SOLIDS. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

TREATMENT PLANT'S EFFLUENT. The discharge from the POTW into the receiving stream.

USER. Any person who contributes or permits the contribution of wastewater into the POTW.

WASTEWATER. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions.

WASTEWATER TREATMENT PLANT. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

WATERCOURSE. A channel in which a flow of water occurs, either continuously or intermittently.

F. USE OF PUBLIC SEWERS REQUIRED.

(1) 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 Springdale, Arkansas, or in any area under the jurisdiction of the Control Authority, any human or animal excrement, garbage, or other objectionable waste. The disposal of biosolids complying with 40 CFR Part 503, State, and Control Authority requirements is allowed.

(2) It shall be unlawful to discharge to any natural outlet within the City of Springdale, Arkansas, or in any area under the jurisdiction of the Control Authority, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this Code.

(3) Except as otherwise provided herein, 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.

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

(b) It shall be unlawful to develop any lots within a subdivision void of municipal sewer facilities, provided municipal sewer facilities are within three hundred (300) feet of said subdivision.

G. PRIVATE SEWAGE DISPOSAL.

(1) Where a public sanitary sewer is not available under the provisions of this Code, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

(2) Before commencement of construction of a private sewage disposal system, the owner shall first obtain an application for such system from the Arkansas Department of Health. A copy of said application shall be submitted to the Control Authority along with appropriate fees and application in order to request water service for

the building or property in question.

(3) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Arkansas Department of Health. Said Department's representative(s) shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Arkansas Department of Health when the work is ready for final inspection, and before any underground portions are covered. (4) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the Arkansas Department of Health. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 7,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(5) At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with this code, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

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

(7) No statement contained in this Code shall be construed to interfere with any additional requirements that may be imposed by the Control Authority.

(8) When a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days and the private sewage disposal system shall be cleaned of any liquids or solids and filled with clean fill material.

(9) It shall be unlawful to discharge to any natural outlet within the City of Springdale, Arkansas, or in any area under the jurisdiction of the Control Authority, a sewage or other polluted waters, except where suitable treatment has been provided and where a valid National Pollutant Discharge Elimination System permit has been issued for such discharge.

H. BUILDING SEWERS AND CONNECTIONS

(1) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Control Authority. At least 72 hours prior notice shall be given to the Control Authority before any new, approved connection or repair to a connection is made.

(2) There shall be two (2) classes of building sewer permits: a) for residential and commercial service; and b) for service to establishments producing industrial wastes.

(3) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another or 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.

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

(5) 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 Control Authority. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the Arkansas State Plumbing Codes shall apply.

(6) 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.

(7) 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.

(8) 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 Control Authority, or the procedures set forth in appropriate specifications of the Arkansas State Plumbing Code. All such connections shall be made gas-tight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Control Authority before installation.

(9) The applicant for the building sewer permit shall notify the Building Inspector for the City of Springdale, Arkansas when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Control Authority or their representative.

(10) 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 Control Authority.

I. PROHIBITED DISCHARGE STANDARDS.

(1) General Prohibitions: No person 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 Federal, State, or local pretreatment standards or requirements.

(2) Specific Prohibitions: No person shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

- (a) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 C.F.R. 261.21;
- (b) Wastewater having a pH less than 5.0 or more than 11.0, or otherwise causing corrosive structural damage to the POTW or equipment;
- (c) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference;
- (d) 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;

- (e) Wastewater having a temperature greater than 150°F (65°C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);
 - (f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
 - (g) 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;
 - (h) Trucked or hauled pollutants, except at discharge points designated by the Control Authority;
 - (i) Any 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;
 - (j) 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 POTW's NPDES permit;
 - (k) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable Federal or State regulations and approved by the Control Authority;
 - (l) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, condensate, deionized water, noncontact cooling water, or unpolluted wastewater;
 - (m) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
 - (n) Medical wastes which are deemed by the Control Authority to have the potential to cause acute worker health or safety problems;
 - (o) Wastewater causing, alone or in conjunction with other sources, the POTW to violate its NPDES permit or the treatment plant's effluent to fail a toxicity test;
 - (p) Any substance which may cause the POTW's effluent or other product of the POTW such as residues, biosolids (sludges) or scums, to be unsuitable for normal landfill/land application, reclamation or reuse, or to interfere with the reclamation process;
 - (q) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
 - (r) Any material into a manhole through its top unless specifically authorized by the Control Authority.
- (3) 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.

J. PROTECTION FROM DAMAGE. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any

structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provisions shall be subject to immediate arrest under charge of disorderly conduct.

K. NATIONAL CATEGORICAL PRETREATMENT STANDARDS. The categorical pretreatment standards found at 40 C.F.R. Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

(1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Control Authority may impose equivalent concentration or mass limits in accordance with 40 C.F.R. 403.6(c).

(2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Control Authority shall impose an alternate limit using the combined wastestream formula in 40 C.F.R. 403.6(e).

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

(4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 C.F.R. 403.15.

L. LOCAL LIMITS. Local limits will be established, if required, to insure that the maximum allowable headworks loadings to the wastewater treatment facility are not exceeded. No person shall discharge wastewater containing in excess of the instantaneous maximum allowable discharge limits except by Permit from the Control Authority. The Control Authority may revise or modify the local limits as required, or if deemed necessary to comply with the objectives presented in this Code or the general and specific prohibitions in this Code, or to insure compliance with federal, state, or local law.

M. RIGHT OF REVISION. The Control Authority reserves the right to establish, by local limits development, policy, regulation, or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

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

II. PRETREATMENT OF WASTEWATER.

A. PRETREATMENT FACILITIES. Users shall provide wastewater treatment as

necessary to comply with this Code and shall achieve compliance with all pretreatment standards, local limits, and the prohibitions set out in this Code within the time limitations specified by EPA, the State, or the Control Authority, 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 Control Authority for review, and shall be acceptable by the Control Authority 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 Control Authority under the provisions of this Code.

B. ADDITIONAL PRETREATMENT MEASURES.

(1) Whenever deemed necessary, the Control Authority may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this Code.

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

(3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Control Authority, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Control Authority and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at the user's expense.

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

C. ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS. At least once every two (2) years the Control Authority shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Control Authority may require any user to develop, submit for approval, and implement such a plan. An accidental discharge/slug control plan shall address, at a minimum, the following:

- (1) Description of discharge practices, including nonroutine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the Control Authority of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the prohibited discharges in this Code; and

(4) 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.

III. WASTEWATER DISCHARGE PERMIT APPLICATION.

A. WASTEWATER ANALYSIS. When requested by the Control Authority, a user must submit all information required by the Control Authority, including, but not limited to information on the nature and characteristics of the user's wastewater. The Control Authority is authorized to prepare a form for this purpose and may periodically require users to submit or update the information.

B. WASTEWATER DISCHARGE PERMIT REQUIREMENT.

(1) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Control Authority, except a significant industrial user that has filed a timely application pursuant to this Code may continue to discharge for the time period specified therein.

(2) The Control Authority may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this Code.

(3) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this Code and subjects the wastewater discharge permittee to the sanctions set out in this Code. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, or local law.

C. WASTEWATER DISCHARGE PERMITTING: EXISTING CONNECTIONS.

Any non-permitted user required to obtain a wastewater discharge permit, who was discharging wastewater into the POTW prior to the effective date of this Code and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply to the Control Authority for a wastewater discharge permit in accordance with this Code, and shall not cause or allow discharges to the POTW to continue after 180 days of the effective date of this Code except in accordance with a wastewater discharge permit issued by the Control Authority.

D. WASTEWATER DISCHARGE PERMITTING: NEW CONNECTIONS. Any user required to obtain a wastewater discharge permit that proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with this Code, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

E. APPLICATION SIGNATORIES AND CERTIFICATION. All wastewater discharge permit applications and user reports must be signed by an authorized signatory of the user and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate

the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

F. WASTEWATER DISCHARGE PERMIT DECISIONS. The Control Authority will evaluate the data furnished by the user and may require additional information. Within ninety (90) days of receipt of a complete wastewater discharge permit application, the Control Authority will determine whether or not to issue a wastewater discharge permit. The Control Authority may deny any application for a wastewater discharge permit.

IV. WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS.

A. WASTEWATER DISCHARGE PERMIT DURATION. Wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Control Authority. Each wastewater discharge permit will indicate a specific date upon which it will expire.

B. WASTEWATER DISCHARGE PERMIT CONTENTS. Wastewater discharge permits shall include such conditions as are deemed reasonably necessary by the Control Authority to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, protect the public, facilitate biosolids (sludge) management and disposal, and protect against damage to the POTW.

(1) Wastewater discharge permits must contain:

- (a) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;
- (b) A statement that the wastewater discharge permit is nontransferable;
- (c) Effluent limits based on applicable pretreatment standards;
- (d) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law; and
- (e) 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.

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

- (a) Limits on the average and/or maximum rate of discharge, time of

discharge, and/or requirements for flow regulation and equalization;

- (b) Requirements for the installation and maintenance 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;
- (c) Requirements for the development and implementation of accidental discharge/slug control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
- (d) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- (e) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- (f) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
- (g) Other conditions as deemed appropriate by the Control Authority to ensure compliance with this Section, and Federal and State laws, rules, and regulations.

C. WASTEWATER DISCHARGE PERMIT APPEALS. A permittee may petition the Control Authority to reconsider the terms of a wastewater discharge permit within thirty (30) days of notice of issuance of the discharge permit.

- (1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- (2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- (3) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- (4) If the Control Authority fails to act within thirty (30) days of receipt of the request, the request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit, shall be considered final administrative actions for purposes of judicial review.

D. WASTEWATER DISCHARGE PERMIT MODIFICATION. The Control Authority may modify the 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 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 the permitted discharge poses a threat to the POTW, POTW personnel, or the receiving waters;
- (5) Violation of any terms or conditions of the 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 C.F.R. 403.13;
- (8) To correct typographical or other errors in the wastewater discharge permit.

E. WASTEWATER DISCHARGE PERMIT TRANSFER. Wastewater discharge permits may not be assigned or transferred to a new owner and/or operator.

F. WASTEWATER DISCHARGE PERMIT REVOCATION. The Control Authority may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (1) Failure to notify the Control Authority of significant changes to the wastewater prior to the changed discharge;
- (2) Failure to provide prior notification to the Control Authority of changed conditions pursuant to this Code;
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (4) Falsifying self-monitoring or other reports;
- (5) Tampering with monitoring equipment;
- (6) Refusing to allow the Control Authority timely access to the facility premises and records;
- (7) Failure to meet effluent limitations;
- (8) Failure to pay fines;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules;
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application; or
- (12) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this Code.

Wastewater discharge permits shall be voidable upon cessation of operations. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

G. WASTEWATER DISCHARGE PERMIT REISSUANCE. A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with this Code, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit.

H. REGULATION OF WASTE RECEIVED FROM OTHER JURISDICTIONS.

- (1) If another jurisdiction, or user located within another jurisdiction, contributes wastewater to the POTW, the Control Authority shall enter into an interjurisdictional agreement with the contributing jurisdiction.

(2) An interjurisdictional agreement, as required by paragraph (1), above, shall contain the following conditions:

- (a) A requirement for the contributing jurisdiction to adopt a Sewer Use Code or Ordinance which is at least as stringent as this Code and local limits which are at least as stringent as those set out in this Code. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the Code of the City of Springdale, Arkansas and/or local limits;
- (b) A requirement for the contributing jurisdiction to submit a revised user inventory on at least an annual basis;
- (c) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing jurisdiction; which of these activities will be conducted by the Control Authority; and which of these activities will be conducted jointly by the contributing jurisdiction and the Control Authority;
- (d) A requirement for the contributing jurisdiction to provide the Control Authority with access to all information the contributing jurisdiction obtains as part of its pretreatment activities;
- (e) A provision insuring the Control Authority access to the facilities of users located within the contributing jurisdiction's boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Control Authority; and
- (f) A provision specifying remedies available for breach of the terms of the interjurisdictional agreement.

V. REPORTING REQUIREMENTS.

A. BASELINE MONITORING REPORTS.

- (1) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 C.F.R. 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Control Authority a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the Control Authority a report which contains the information listed in paragraph 2, 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.
- (2) Users described above shall submit the information set forth below.
 - (a) Identifying Information. The name and address of the facility, including the name of the operator and owner.
 - (b) Environmental Permits. A list of any environmental control permits held by or for the facility.
 - (c) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the

operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(d) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 C.F.R. 403.6(e).

(e) Measurement of Pollutants.

(i) The categorical pretreatment standards applicable to each regulated process.

(ii) The results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the Control Authority) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long term average concentrations or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in this Code.

(iii) Sampling must be performed in accordance with procedures set out in this Code.

(f) Certification. A statement, reviewed by the user's authorized signatory 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.

(g) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in this Code.

(h) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with this Code.

B. COMPLIANCE SCHEDULE PROGRESS REPORT. The following conditions shall apply to the compliance schedule required by this Code:

(1) 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 may include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation);

(2) No increment referred to above shall exceed nine (9) months;

(3) The user shall submit a progress report to the Control Authority no later than ten (10) business 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

(4) In no event shall more than nine (9) months elapse between such progress reports to the Control Authority.

C. REPORT ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD DEADLINE.

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Control Authority a report containing the information described in this Code. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 C.F.R. 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with this Code.

D. PERIODIC COMPLIANCE REPORTS.

(1) All significant industrial user shall, at a frequency determined by the Control Authority but in no case less than every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with this Code.

(2) 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.

(3) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Control Authority, using the procedures prescribed in this Code, the results of this monitoring shall be included in the report.

E. REPORT OF CHANGED CONDITIONS.

Each user must notify the Control Authority of any planned significant changes to the user's operations or system which might alter the nature, quality or volume of its wastewater at least thirty (30) days before the change.

(1) The Control Authority 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 this Code.

(2) The Control Authority may issue a wastewater discharge permit under this Code or modify an existing wastewater discharge permit under this Code in response to changed conditions or anticipated changed conditions.

(3) For purposes of this requirement, significant changes include, but are not limited to, flow changes of twenty percent (20%) or greater, and the discharge of any

previously unreported pollutants.

F. REPORTS OF POTENTIAL PROBLEMS.

(1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW (including a violation of the prohibited discharge standards in this Code), the user shall immediately telephone and notify the Control Authority 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.

(2) Within five (5) business days following such discharge, the user shall, unless waived by the Control Authority, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed pursuant to this Code.

(3) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph (1), above. Employers shall ensure that all employees are advised of the emergency notification procedure.

G. REPORTS FROM UNPERMITTED USERS. All users not required to obtain a wastewater discharge permit shall provide appropriate reports as may be required by the Control Authority.

H. NOTIFICATION OF VIOLATION/REPEAT SAMPLING AND REPORTING. If sampling performed by a user indicates a violation, the user must notify the Control Authority as soon as possible but no later than twenty four (24) hours of becoming aware of the violation. The user shall also immediately repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within the time period specified by the Control Authority but at no time later than thirty (30) days after becoming aware of the violation. The user may not be required to resample if the Control Authority samples between the user's initial sampling and when the user receives the results of this sampling.

I. NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE.

(1) Any person who commences the discharge of hazardous waste shall notify the Control Authority, the EPA Regional Waste Management Division Director, and State hazardous waste authorities (in writing) any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R. Part 261. Such notification must include the name of the hazardous waste as set forth in 40 C.F.R. Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification shall also 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 to the Control Authority must be made prior to the commencement of the discharge.

(2) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Control Authority, 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.

(3) 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.

(4) This reporting provision does not create a right to discharge any substance not otherwise permitted to be discharged by this Code, a permit issued thereunder, or any applicable Federal or State law.

J. 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 C.F.R. Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 C.F.R. Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

K. SAMPLE COLLECTION.

(1) Except as indicated in (2), below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Control Authority may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(2) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.

L. TIMING. Written reports will be deemed to have been submitted on the date post-marked. 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.

M. RECORD KEEPING. Users subject to the reporting requirements of this Code shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Code and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. 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 Control Authority, or where the user has been specifically notified of a longer retention period by the U.S. EPA, State, or Control Authority.

VI. COMPLIANCE MONITORING.

A. RIGHT OF ENTRY: INSPECTION AND SAMPLING. The Control Authority shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this Code and any wastewater discharge permit or order issued hereunder. Users shall allow the Control Authority 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.

(1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Control Authority will be permitted to enter without delay for the purposes of performing specific responsibilities.

(2) The Control Authority 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.

(3) The Control Authority 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 Industrial User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually by a certified technician to ensure their accuracy. Calibration records shall be made available to the Control Authority upon request.

(4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Control Authority and shall not be replaced. The costs of clearing such access shall be borne by the user.

(5) Unreasonable delays in allowing the Control Authority access to the user's premises shall be a violation of this Code.

B. SEARCH WARRANTS. If the Control Authority has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this Code, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Control Authority designed to verify compliance with this Code or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Control Authority may seek issuance of a search warrant from the City of Springdale, Arkansas Municipal Court.

C. CONFIDENTIAL INFORMATION. Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge

permits, and monitoring programs, and from the Control Authority's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Control Authority, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 C.F.R. 2.302 will not be recognized as confidential information and will be available to the public without restriction.

D. PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE. The Control Authority shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

- (A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- (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-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria: 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH;
- (C) Any other discharge violation that the Control Authority believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of City personnel or the general public);
- (D) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Control Authority's exercise of its emergency authority to halt or prevent such a discharge;
- (E) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (F) Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (G) Failure to accurately report noncompliance; or
- (H) Any other violation(s) which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

VII. ADMINISTRATIVE ENFORCEMENT REMEDIES.

- A. NOTICE OF VIOLATION.** When the Control Authority finds that a user has violated (or continues to violate) any provision of this Code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Control Authority may serve upon such user either an informal warning or a written Notice of Violation. Within ten (10) business days of the receipt of the notice of violation, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Control Authority. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Control Authority to take any action, including emergency actions or any other enforcement action, without first issuing an informal warning or a Notice of Violation.
- B. CONSENT ORDERS.** The Control Authority may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to this Code and shall be judicially enforceable.
- C. SHOW CAUSE HEARING.** The Control Authority may order a user which has violated or continues to violate, any provision of this Code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Control Authority 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 five (5) business days prior to the hearing. Such notice shall be served on a representative of the user who meets the criteria of an authorized signatory. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.
- D. COMPLIANCE ORDERS.** When the Control Authority finds that a user has violated or continues to violate any provision of this Code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Control Authority 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 may also 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 national 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.

E. CEASE AND DESIST ORDERS. When the Control Authority finds that a user has violated (or continues to violate) any provision of this Code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Control Authority may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- (1) Immediately comply with all requirements; and
- (2) 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.

F. ADMINISTRATIVE FINES.

(1) When the Control Authority finds that a user has violated or continues to violate any provision of this Code, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Control Authority may fine such user in an amount not to exceed \$1,000. Such fines shall be assessed on a per violation, per day basis. The Control Authority may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(2) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

G. EMERGENCY SUSPENSIONS. The Control Authority may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Control Authority may also immediately suspend a user's discharge, that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

(1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its discharge. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Control Authority shall take such steps as deemed necessary, including immediate severance of the sewer connection or water service, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Control Authority may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Control Authority that the period of endangerment has passed, unless the termination proceedings in this Code are initiated against the user.

(2) If necessary, severance of the sewer connection or water service may occur without notice.

(3) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to

the Control Authority within ten (10) business days.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

H. TERMINATION OF DISCHARGE. Any user that violates the provisions of this Code is subject to discharge termination. Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under this Code why the proposed action should not be taken. Exercise of this option by the Control Authority shall not be a bar to, or a prerequisite for, taking any other action against the user.

VIII. JUDICIAL ENFORCEMENT REMEDIES.

A. INJUNCTIVE RELIEF. When the Control Authority finds that a user has violated (or continues to violate) any provision of this Code, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Control Authority may petition the appropriate court through the Control Authority's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this Code on activities of the user. The Control Authority may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

B. CIVIL PENALTIES.

(1) A user which has violated or continues to violate any provision of this Code, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the Control Authority for a maximum civil penalty of \$1,000 per violation, per day. In the case of a monthly or other long term average discharge limit, penalties shall accrue for each day during the period of violation.

(2) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, 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.

(3) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

C. COST RECOVERY. The Control Authority may recover reasonable attorney's fees, court costs, and other expenses associated with any and all enforcement activities provided by this Code, including sampling and monitoring expenses, and the cost of any actual damages or fines incurred by the Control Authority.

D. REMEDIES NONEXCLUSIVE. The remedies provided for in this Code are not

exclusive. The Control Authority 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 Control Authority's enforcement response plan. However, the Control Authority may take other action against any user permitted by State law.

IX. AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS.

A. UPSET.

(1) 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.

(2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (3) are met.

(3) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(a) An upset occurred and the user can identify the cause(s) of the upset;
(b) 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

(c) The user has submitted the following information to the Control Authority as soon as possible but no later than 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) business days which shall include:

- (i) A description of the indirect discharge and cause of noncompliance;
- (ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and,
- (iii) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(4) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(5) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(6) 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.

B. PROHIBITED DISCHARGE STANDARDS. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the prohibitions in this Code or the specific prohibitions except those listed in Section I. I. (2)(a), (b), and (h), 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:

- (1) 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
- (2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the Control Authority was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable biosolids (sludge) use or disposal requirements.

C. BYPASS.

(1) For the purposes of this section,

(a) "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.

(b) "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.

(2) 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 (3) and (4) of this section.

(3) (a) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Control Authority, at least ten (10) business days before the date of the bypass, if possible.

(b) A user shall submit oral notice to the Control Authority of an unanticipated bypass that exceeds applicable pretreatment standards as soon as possible but no later than twenty four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) business 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.

(4) (a) Bypass is prohibited, and the Control Authority may take an enforcement action against a user for a bypass, unless

- (i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- (ii) 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

(iii) The user submitted notices as required under paragraph (3) of this section.

(b) The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three conditions listed in paragraph (4)(a) of this section.

X. MISCELLANEOUS PROVISIONS.

A. SEVERABILITY. If any provision of this Code is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

B. CONFLICTS. To the extent that any other ordinance or parts of other ordinances are inconsistent or conflict with any part of this Code, this Code shall be controlling to the extent of the inconsistency or conflict.

This Code was adopted by Ordinance 2842 of the City Council of the City of Springdale on the 11th day of August, 1998.

Attest:

By: Denise Pearce, City Clerk

ORDINANCE NO. 2017-08

AN ELM SPRINGS, ARKANSAS ORDINANCE TO PROHIBIT THE USE OF ALL TOBACCO PRODUCTS IN CITY PARKS [EXCEPT IN A DESIGNATED AREA] AND PRESCRIBING PENALTIES FOR VIOLATIONS THEREOF; DECLARING AN EMERGENCY TO EXIST, AND FOR OTHER PURPOSES.

WHEREAS,

tobacco use claims more than 5,800 lives each year in Arkansas (Arkansas Department of Health); and

WHEREAS,

annually in the United States, more than 480,000 people die from cigarette smoking, including nearly 42,000 deaths from secondhand smoke exposure (United Health Foundation); and

WHEREAS,

smoking is the leading cause of preventable death in the United States (United Health Foundation); and

WHEREAS,

approximately 14 million cases of major medical conditions among adults are attributed to smoking (United Health Foundation); and

WHEREAS,

there is no known safe level of exposure to secondhand smoke, and secondhand smoke exposure in certain outdoor areas has been found to pose a significant health risk (Journal of the Air and Waste Management Association); and

WHEREAS,

the purpose of this ordinance is to preserve and protect the public health, safety, and welfare by prohibiting smoking and other tobacco use in city parks, EXCEPT where expressly allowed.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELM SPRINGS, ARKANSAS, THAT:

SECTION 1. For the purpose of this Ordinance, smoking and/or tobacco use shall include the lighting or smoking of any cigarette, cigar, pipe, or the possession of any lighted cigarette, cigar, or pipe. It shall also include the use of all smokeless tobacco products (including, but not limited to, chewing tobacco, snuff, dip, snus, and dissolvable products such as lozenges, orbs, sticks, and strips), e-cigarettes, and vapor products.

SECTION 2. It shall be prohibited for any person to smoke or use any tobacco products (smokeless or otherwise), e-cigarettes or vapor products in any City park, with the exception of use in a clearly designated and signed smoking area.

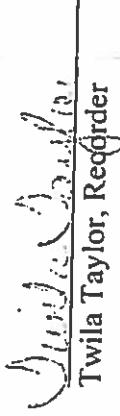
SECTION 3. The City shall post signs in conspicuous places in all City parks notifying the public that smoking and tobacco use of any kind are prohibited therein, except in a designated smoking area.

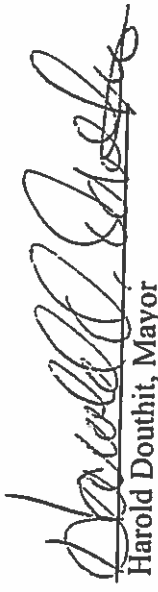
SECTION 4. Any person convicted of violating the provisions of this ordinance shall be fined a maximum of \$25.00 for the first offense, \$50.00 for the second offense, and \$250.00 for any subsequent offense.

SECTION 5. Emergency. In order to preserve and protect the public health, safety, and welfare of the citizens of the City of Elm Springs, an emergency is hereby declared to exist and this Ordinance shall take full force and effect upon its approval.

PASSED AND APPROVED this 30 day of November, 2017.

Attest:


Twila Taylor, Recorder


Harold Douthitt, Mayor