

ORDINANCE NO. 1894

AN ORDINANCE AMENDING IN ITS ENTIRETY CHAPTER 110 OF THE MUNICIPAL CODE OF THE CITY OF EUREKA SPRINGS, PERTAINING TO UTILITIES, AND ADOPTING THE AMENDED CODE CHAPTER 110 OF THE MUNICIPAL CODE OF EUREKA SPRINGS, CHAPTER 110, PERTAINING TO UTILITIES

WHEREAS, Eureka Springs Code Chapter 110, of the City of Eureka Springs Municipal Code, which pertains to Utilities, is in effect and is in need of amendment, as it is outdated and not sufficient to attend to the needs of the City of Eureka Springs at this time; and

WHEREAS, the City Council has determined that the Utilities Code, Chapter 110, of the Municipal Code are in need of updating, simplification and clarification to enable the City to provide safe, efficient and adequate public utility services, and to effectively regulate these services; and

WHEREAS, it is in the best interest of the citizens of the City of Eureka Springs to insure that water, sewer and like services, be governed in an efficient manner to deliver reliable and safe utility services, to insure the health and sanitation of the citizens, and to promote the safety and well being of the citizens of Eureka Springs.

NOW, THEREFORE, BE IT HEREBY ORDAINED:

THAT Eureka Springs Code Chapter 110, Utilities, of the City of Eureka Springs Municipal Code, is hereby revoked in its entirety and replaced with the new Code Chapter 110 of the City of Eureka Springs Municipal Code which is attached hereto and adopted and incorporated by reference; and

THAT three (3) copies of such Code are now and shall be kept on file in the office of the City Clerk and these copies of such Code are now and shall be available for all persons desiring to examine the same, and have been available for such viewing for a reasonable time prior to the final passage by this City Council of this ordinance adopting such Code; and

THAT in the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Ordinance or the Municipal Code section or chapter adopted hereby shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance, Municipal Code section or chapter as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional, and the remaining provisions of this Ordinance, Code section or chapter shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

This Ordinance adopting the new Utilities Code of the City of Eureka Springs which is adopted and incorporated herein by reference is hereby passed and approved this _____ day of _____, 20--.

APPROVED:

Beau Zar Satori, Mayor

Attest:

City Clerk/Treasurer

Chapter 110

UTILITIES*

*Cross reference(s)--Buildings and building regulations, ch. 14; businesses, ch. 18; environment, ch. 42; floods, ch. 50; franchises, ch. 54; health and sanitation, ch. 58; historic preservation, ch. 62; manufactured/mobile homes, ch. 70; planning, ch. 82; streets, sidewalks and other public places, ch. 94; subdivisions, ch. 98.

State law reference(s)--Authority regarding utilities generally, A.C.A. § 14-200-101 et seq.

ARTICLE I. IN GENERAL

Sec. 110-1. Penalty.

Penalty for violation of any portion of this chapter shall be deemed a misdemeanor and, upon conviction in the municipal court, any person violating this chapter shall be subject to section 1-4.

(Code 1978, § 10.12.16)

Sec. 110-2. Right of entry.

The water superintendent, his assistant, agents or employees, shall at all reasonable hours have the right to enter the premises of any water consumer to examine the pipes and fixtures, and shall at all times have the control of the corporation *stat* the main and the service *valve* in the meter box. All reasonable care will be exercised during such inspection of the owner's property.

(Code 1978, § 10.12.05)

Sec. 110-3. Permit.

No person except the water department of the city shall do or cause to be done any work whatever in connection with the introduction of water into any property, or connecting water or sewer, or altering, extending or repairing any water or sewer connections unless he shall first obtain a permit from the city; and all such connections, alterations, extensions and repairs to be constructed and installed shall be subject to the *building inspector's* inspection and approval, before covering and placing in operation.

(Code 1978, § 10.12.01)

Sec. 110-4. Extending service.

The water and sewer department may, at its option, install water and sewer services into areas within the city limits where such areas are devoid of such services. All such water and sewer facilities shall be constructed in accordance with state board of health rules and specifications, and the cost of such construction shall be paid by the property owner or the person desiring to tap such lines. In those instances where the water and

sewer department has approved the extension of the water and/or sewer services into areas which are not within the city limits (at the property owners' expense), the regular monthly billing for such water and/or sewer services shall be at a double rate. (Code 1978, § 10.12.13)

Sec. 110-5. Extensions of service, installations and connections.

(a) *Payment generally.* The city shall bear the expense of connecting new users to the city water and sewer system from the city main nearest to the property line of the user to the property line or up to 25 feet from such water or sewer main, whichever is the lesser distance, upon the full payment of the applicable tapping fee. If the distance from such water or sewer main to such property line shall exceed 25 feet, the user shall bear the expense of completing the desired connection. The balance may be installed by a plumber and approved by the city plumbing inspector. All highway crossings shall be at the property owner's expense, with the exception being that the city may pay the property owner's expense with the exception being that the city may pay the difference in cost of such if it requires larger pipe than is normally required. The water and sewer department shall make and close all street openings for tapping of any street main, whether water or sewer.

(b) *Water meters.* All water meters shall be installed on public rights-of-way or easements where possible. Such installations shall be at or near the property line of the user or consumer.

(c) *Installation on private property.* All installations on private property shall conform to the state plumbing code and shall be at the expense of the owner of such private property.

(d) *Walkways and/or driveways.* All private property owners bringing water or sewer service onto their private property shall, at no expense to the city, cause all new lines to be extended beyond any existing or proposed driveways or walkways providing ingress and/or egress to their property. The purpose of this requirement is to avoid the destruction and repair of such driveways or walkways when water or sewer service is extended to private property beyond such driveways or walkways at a later date. If any private property owner or developer shall fail to comply with this requirement and it becomes necessary at a later date to take up such a driveway or walkway to extend water or sewer service, the cost of taking up and repairing such driveway or walkway shall be borne by the owner of such private property; and such owner of private property shall reimburse the city for any cost or expense sustained by the city by reason of such work.

(e) *Corporation stop.* The corporation stop shall be installed in all water main service taps with the T of the corporation stop facing upward. It shall be either Ford, Mueller, or their equal.

(f) *Meter box.* The water department shall furnish a meter box with a lid for each new water service, and the cost of the installation of such box shall be included in the service tap fee. Water meters and boxes installed at all times shall remain the property of the city,

and in all instances shall be installed with the top of the meter box set at the same elevation as final lot grading. If meter boxes are covered for any reason, and meter reading personnel cannot readily and safely gain access to the boxes, such boxes shall be adjusted to provide access; and the cost of such readjustment shall be applied to the customer's billing or the reading shall be estimated until access can be obtained. (Code 1978, § 10.12.02)

Sec. 110-6. Water supply control.

(a) *Accessible shutoff valve.* An accessible shutoff valve shall be provided at the beginning of the private service line. A stop and waste valve shall not be used as a water supply control valve. If the consumer installs the accessible water valve, the city shall be responsible for any loss of water between the consumer's valve and the water meter if the consumer's valve is in the meter box.

(b) *Policy of meter shutoff.* In order to prevent damage to the water meters, it is the policy of the city that a city water department employee be called to provide the service of turning the water meter on or off.

(c) *Fee structure.* During normal working hours, a fee of \$25.00 per call will be assessed to the subscriber of water service at the location of the service call. A fee of \$40.00 per call will be assessed for after normal working hours to the subscriber of water service at the location of the service call. All service fees will be assessed to the subscriber of water service at the location of the service call. All service fees will be assessed to the subscriber in the next water statement. There is no fee assessed to turn on or off any garden water meter.

(d) *Penalty.* It shall be unlawful for any person to turn on or off any water meter without authority from the city. Any person convicted of violating provisions of this section shall be fined an amount not less than \$50.00 and not more than \$250.00. (Code 1978, § 10.12.02)

Sec. 110-7. Service pipe.

All service pipe shall be installed in accordance with the most recent edition of the Arkansas State Plumbing Code.

Sec. 110-8. Boring under highway.

Whenever it is necessary to bore under the highway for the installation of water or sewer service, this expense shall be borne by the property owner desiring the service. (Code 1978, § 10.12.02)

Sec. 110-9. Mandatory sewer connections.

Any new building within 500 feet of a sewer line must connect to the city sewer line. Anytime a sewer line is extended to within 500 feet of the property currently on a septic system, the building must connect to the city sewer line.
(Code 1978, § 10.12.02)

Sec. 110-10. Lift stations.

Commercial projects using a lift station shall have a holding tank sufficient to hold for 24 hours and a pump which shall be on a timer to empty into the city's sewer system between the hours of 12:00 midnight and 5:00 a.m.
(Code 1978, § 10.12.02)

Secs. 110-11--110-40. Reserved.

ARTICLE II. COLLECTION, TRANSPORTATION AND DISPOSAL OF LIQUID WASTES*

*State law reference(s)--Disposal of solid waste generally, A.C.A. § 8-6-201 et seq.

Sec. 110-41. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Approved means accepted as satisfactory under the terms of this article and given formal and official sanction by the control authority.

ADH means Arkansas Department of Health.

Control authority means the mayor or the mayor's designated representative.

Disposer means a person, partnership or legal entity who receives, stores, retains, processes or disposes of liquid wastes.

Grease trap means a receptacle designed to collect and retain crease and fatty substances normally found in kitchen and similar wastes. A crease trap is installed in the drainage system between the kitchen or other point of production of the waste and the building sewer.

Licensee means a person who owns a facility or part of a facility.

Liquid wastes means waterborne solids, liquids and gaseous substances derived from a grease trap or chemical/portable toilet and/or septic tank, and described as grease trap wastes or septage.

Manifest system means a system consisting of a three-part trip ticket used to document the generation, transportation and disposal of liquid wastes.

Occupation license means the numbered, formal, written document issued to a person by the control authority authorizing collection, transportation and disposal of grease trap wastes and septage.

Owner means the person who owns a facility or part of a facility.

Person means an individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, governmental entity, or any other legal entity, or their legal representatives, agents or designates.

Sanitary sewer means a public sewer which carries sewage and to which stormwaters, surface waters and groundwaters are not intentionally admitted.

Septage means wastes removed from a portable toilet, chemical toilet or septic tank.

Tank means a device designed to contain an accumulation of grease trap wastes or septage which is constructed primarily of non-earthen materials (e.g., concrete, steel, plastic) to provide structural support for the containment.

Toxic wastes means any liquid, semi-liquid, or solid waste materials which have the ability to chemically produce injury if they reach a susceptible site in or on human beings, domestic animals or wildlife.

Transporter means a person who operates a vehicle for the purpose of collecting, transporting and disposing of liquid wastes.

Trip ticket means the shipping document originated and signed by the transporter and containing the information required by the control authority.

Unauthorized disposal means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid or semisolid grease trap wastes or septage in or on any land or water so that such wastes or any of their constituents may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

Vehicle means a mobile device in which or by which liquid wastes may be transported upon public streets and highways.

(Code 1978, § 5.24.01)

Cross reference(s)--Definitions generally, § 1-2.

Sec. 110-42. Penalties.

(a) Any person who shall violate any provision of this article or who shall fail to comply with any of its provisions shall be guilty of a misdemeanor and upon conviction shall be subject to section 1-4.

(b) Any person found guilty of violating any provision of this article shall be liable to the city for any expense, loss or damage occasioned by the city for proper cleanup and disposal of liquid wastes and resulting waste materials, and for any costs, fees (legal and/or professional) and expenses incurred by the city in litigation and/or prosecution pertaining to the enforcement of this article.
(Code 1978, § 5.24.13)

Sec. 110-43. Rules and regulations.

The control authority may promulgate rules and regulations necessary to carry out the provisions of this article and to protect the public from health and safety hazards. The control authority may amend any license issued under this article to ensure compliance with applicable laws and regulations.
(Code 1978, § 5.24.11)

Sec. 110-44. Accumulation of liquid wastes.

It shall be unlawful for any person to allow liquid wastes that emit noxious or offensive odors or are unsanitary or injurious to public health to accumulate upon publicly or privately owned property.
(Code 1978, § 5.24.05)

Sec. 110-45. Liquid wastes transporter's city occupation license requirement.

(a) It shall be unlawful for any person to operate or cause to be operated a vehicle transporting liquid wastes without a city occupation license issued by the control authority. The license shall designate the liquid wastes authorized for collection and transportation in each vehicle. A separate license shall be issued for each vehicle.

(b) A person who desires a liquid wastes transporter's occupation license must make application on a form provided by the control authority.

(c) A person who desires a liquid wastes transporter's occupation license must submit with the application a photocopy of the transporter's driver license. A licensee shall notify the control authority of personnel changes during the license period and shall provide the control authority a copy of each new employee's driver license within ten business days.

(d) A person who desires a liquid wastes transporter's occupation license must submit with the application verification of a state license/permit to transport liquid wastes.

(e) The control authority shall not issue an occupation license to a liquid wastes transporter unless the applicant submits for inspection (by the chief operator of the city's wastewater treatment plant) each vehicle the applicant proposes to use to collect and transport liquid wastes and each vehicle is found to be constructed and equipped in accordance with the provisions of this article.

(f) Each licensee shall pay an annual occupation license fee of \$50.00, plus \$10.00 for each vehicle to be used by the licensee.

(g) A liquid wastes occupation license cannot be transferred.
(Code 1978, § 5.24.02)

Sec. 110-46. Display of occupation license.

A liquid wastes transporter licensee shall keep the current occupation license, or a copy, in the vehicle at all times and will be asked to show the license before being allowed to discharge liquid wastes at an authorized disposal site.
(Code 1978, § 5.24.03)

Sec. 110-47. Denial, suspension, revocation of occupation license.

(a) The control authority may deny an occupation license to a liquid wastes transporter if it is determined that an applicant is not qualified under the provisions of this article; and the control authority may suspend or revoke an occupation license if it is determined that a licensee:

- Is not qualified under the provisions of this article;
- Has violated a provision of this article;
- Has failed to pay a required fee;
- Has failed to comply with insurance, maintenance and inspection requirements; or

(5) Has failed to deliver trip tickets to the control authority.

(b) After suspension under this section, a licensee may file a request for reinstatement of the license. When the control authority determines that the licensee is again qualified, all violations have been corrected, precautions have been taken to prevent future violations, and all required fees have been paid, the occupation license shall be reinstated/renewed.

(c) The control authority may revoke for a period of one year or less all occupation licenses held by a liquid wastes transporter if the transporter or an employee of the transporter violates any of the provisions of this article; any rule or regulation

promulgated by the control authority; or any applicable city, state or federal rules and regulations pertaining to the collection, transportation or disposal of liquid wastes.

(d) It shall be unlawful for a liquid wastes transporter to collect, transport or dispose of any liquid wastes within the jurisdiction of the control authority while his license is suspended or has been revoked.

(Code 1978, § 5.24.12)

Sec. 110-48. Liquid wastes vehicles; inspection requirements.

(a) A liquid wastes transporter's vehicle shall be inspected by the chief operator at the wastewater treatment plant prior to the issuance of an occupation license. To qualify for a license, a vehicle must comply with the following requirements:

- (1) The sample tank shall be an integral part of a vehicle; portable tanks or other temporarily installed containers are prohibited;
- (2) Piping, valves and connectors shall be permanently attached to the tank and/or vehicles;
- (3) The tank must be liquid-tight;
- (4) The tank must be constructed so that every interior and exterior portion can be cleaned easily;
- (5) Piping, valves and connections shall be accessible and easy to clean;
- (6) The tank opening constructed so that wastes will not spill during filling, transports;
- (7) Outlet connections must be constructed so that no liquid wastes will leak, run or spill;
- (8) Outlets must be designed for the type of liquid wastes handled and capable of controlling flow or discharge without spillage, spray or flooding; and
- (9) Pumps, valves, cylinders, diaphragms and other appurtenances designed for easy disassembly and cleaning.

(b)The liquid wastes transporter shall maintain vehicles and equipment as follows:

- (1) Maintain tanks, pumps, valves, hoses, racks, cylinders, diaphragms, pipes, connections and other appurtenances on a vehicle in good repair and free from leaks;
- (2) Provide a safety plug or cap for each valve of a tank; and

(3) Cause each vehicle to be clean and odor free at the beginning of each workday.
(Code 1978, § 5.24.09)

Sec. 110-49. Disposal of liquid wastes.

(a) It shall be unlawful for any person to discharge or to offer for sale or exchange liquid wastes anywhere except at a disposal site authorized by city, state, or federal governments.

(b) It shall be unlawful for any person to deposit or discharge liquid wastes onto a street; into a storm or sanitary sewer, stream or creek; or onto an area that drains into a storm sewer system, stream or creek.

(Code 1978, § 5.24.06)

Sec. 110-50. Liquid wastes generator's responsibilities.

(a) A liquid wastes generator shall arrange to have liquid wastes collected by a transporter who holds a valid city occupation license and transported to an authorized disposal site.

(b) A liquid wastes generator shall not have hazardous wastes or a combination of liquid wastes and hazardous wastes collected by a transporter operating under a city occupation license. Hazardous wastes generators shall comply with applicable state and federal regulations regarding the collection, transportation and disposal of hazardous wastes.

(c) A liquid wastes generator shall:

- (1) Install or provide a collection device of a size and type approved by the control authority;
- (2) Maintain the collection devices in proper operating condition;
- (3) Supervise proper cleaning of the collection devices;
- (4) Report spills and accidents involving a collection device to the control authority within 24 hours; and
- (5) Cleanup spills and accidents immediately and have all waste materials disposed of by a licensed transporter by proper means.

(Code 1978, § 5.24.07)

Sec. 110-51. Liquid wastes disposer's responsibilities.

(a) It shall be unlawful for a liquid wastes disposer to allow the accumulation of liquid wastes on publicly or privately owned property which rainfall could carry onto land, into

streams, creeks or storm sewers, or create a noxious odor or health hazard.

(b) A liquid wastes disposer shall:

- (1) Obtain and maintain compliance with all licenses and/or permits required by city, state or federal rules and regulations;
- (2) Accept wastes only from transporters who have a valid city occupation license;
- (3) Maintain trip ticket copies for two years;
- (4) Accept only those classes of liquid wastes authorized by ordinance or license; and
- (5) Maintain and make available all records required by the control authority.
(Code 1978, § 5.24.08)

Sec. 110-52. Liquid wastes transporter's responsibilities.

(a) A liquid wastes transporter shall comply with all applicable city, state, and federal rules and regulations pertaining to the collection, transportation and disposal of liquid wastes.

(b) Before accepting a load of liquid wastes for transportation and disposal, the transporter shall determine the nature of the wastes to be transported and the sufficiency of the vehicle and equipment to properly handle the wastes without leakage, spillage or release of toxic or harmful gases, fumes, liquids or other substances. The transporter shall inform the disposer of the nature of the wastes upon arrival at the authorized disposal site.

(c) A transporter with a valid city liquid wastes transporter's occupation license shall not transport hazardous wastes in vehicles used to transport non-hazardous wastes.

(d) The following described manifest system, consisting of a three-part trip ticket, shall be used to document the collection, transportation and disposal of all applicable liquid wastes generated by the residents of the city:

- (1) Trip ticket books shall be purchased by the transporter from the city for an established fee.
- (2) A transporter shall complete one trip ticket for each location serviced. Chemical/portable toilet companies servicing their own units shall be exempt from the manifest system.
- (3) A copy of the trip ticket shall be signed by the generator and the transporter when the liquid wastes are collected at the generator's containment site, and the generator shall retain a copy of the ticket.

(4) The transporter shall present two copies of the trip ticket for signature of the control authority when the liquid wastes are discharged at the authorized disposal site, and the control authority shall retain one copy of the trip ticket for two years.

(5) The transporter shall retain the third copy of the trip ticket for two years.
(Code 1978, § 5.24.09)

Sec. 110-53. Liquid wastes disposal fees.

(a) When disposing of liquid wastes at the wastewater treatment plant, or other approved site transporters shall pay the following fees (based on the number of gallons pumped from the transporting vehicle into the treatment system):

Total Gallons Pumped	Fee
0-- 500	20.00
501--1,000	25.00
1,001--1,500	35.00
1,501--2,000	40.00
2,001--2,500	45.00
2,501--3,000	50.00

(b) Disposal fees shall be paid at the authorized disposal site at the time liquid waste; are discharged from the transporter's vehicle.

(Code 1978, § 5.24.10)

Sees. 110-54--110-80. Reserved.

ARTICLE III. WATER UTILITY

DIVISION 1. GENERALLY

Sec. 110-81. Water contracts.

Unless specifically prohibited by another provision contained in this article, the city shall have the right to enter into contracts to sell water outside the limits of the city as may be authorized by statute and/or the memorandum of understanding with Carroll-Boone Water District, dated December 18, 1998, or as either may be amended, upon the following terms and conditions:

- (1) The limits of the area to be served shall be clearly defined.
 - (2) The area to be served shall be governed and administrated by a competent and legally formed entity.
 - (3) The distribution system to be served shall be designed, constructed and maintained in accordance with state department of health standards, and in accordance and compliance with the state plumbing code.
 - (4) The cost for construction to effect connection shall be borne completely by the user and shall not be included in the city's water rates.
 - (5) Any such contract shall be for a fixed term.
 - (6) That all contracts with users connecting directly to the Carroll-Boone Water District system shall be set at a rate established by the city council paid by the city to the district as that rate may be changed; that all contracts with users to be served directly through the city's system shall be charged at a rate provided by section 110-184.
 - (7) The user shall furnish, operate and maintain at the user's own expense a master meter at all times properly calibrated to ensure proper reading and billing.
 - (8) That any such contract shall be approved by proper resolution of the city and by proper resolution of the city council; except if the user shall be another city or an improvement district properly created under authority of statute, the contract shall be approved and authorized by proper ordinance of each party.
- (Ord. No. 1807, § 1, 1-1-1999)

Sec. 110-82. Penalties.

The city shall terminate illegal connections immediately upon gaining knowledge of such connections. Any connections to the municipal water system made by a person to structures and/or facilities located outside the corporate limits of the city which were not approved by the city shall be considered illegal connections and a violation of this article. Any person or entity convicted for a violation of any provision of this article shall be subject to section 1-4.

(Code 1978, § 10.04.05)

Sec. 110-83. Application.

Applications for water service shall be made at the office of the city water department by the owner of the premises, his authorized agent or the person in possession of the premises. Persons making application for water and/or sewer service shall pay to the city the applicable meter deposit fee and/or tapping fee, when applicable, and shall be charged the applicable service charge for turning the water on.

(Code 1978, § 10.12.08)

Sec. 110-84. Furnishing water or sewer service to others.

Customers shall not be allowed to furnish other persons with water without a permit from the water department. Any consumer violating this section shall have his water service disconnected except in cases of emergency. Each home or business must have separate sewer connection; in no case will a customer be allowed to furnish sewer facilities for another home or business. Any consumer violating this section shall have his water service disconnected except in cases of emergency.

(Code 1978, § 10.12.09)

Sec. 110-85. Emergency.

In the event of a water shortage, due to any cause, the water department shall have the right to discontinue service to customers using water for irrigation purposes or for any other purpose not considered to be the best interest of the general public.

(Code 1978, § 10.12.10)

Sec. 110-86. Removal of water from fire hydrant.

No person shall take any water from a fire hydrant without first having obtained approval of the water department and making arrangements to pay for the water at the prescribed rate for any purpose other than water used for extinguishing a fire and in cases of emergency.

(Code 1978, § 10.12.11)

Sec. 110-87. Easement.

(a) The water and sewer department may require the property owner who laid at his own expense any water or sewer distribution or collecting mains to grant an easement over the lands to which any such lines may pass as a condition preceding to connecting to the distribution or collection system of the city water and sewer department. The property owner or person laying lines shall not be entitled to reimbursement for water or sewer lines.

(b) The city water and sewer department reserves the right at all times to establish grades and depths to conform to facilities and fixture plans.

(Code 1978, § 10.12.12)

Sec. 110-88. Swimming pools.

(a) Before any swimming pool, either public or private, shall be filled or refilled with city water, the water department shall be notified at least three hours in advance before the filling or refilling of any swimming pool with city water is commenced.

(b) In instances when a swimming pool is emptied in a manner whereby the water does not enter the city's sewer collection and treatment system but instead empties onto the ground, the sewer charge, based upon the amount of water emptied from the pool, may be waived.

(c) The waiver provided for in subsection (b) of this section shall be applied for at the time of the filling of the pool, and only one waiver per calendar year may be granted. The capacity of the pool and the amount of water emptied onto the ground shall be established by the consumer to the satisfaction of the water department before any waiver is granted. (Code 1978, § 10.12.06)

Sec. 110-89. Irrigation.

Domestic and commercial customers must receive permission from the water superintendent to use water for irrigation purposes. If due to a water shortage or for any other reason the services rendered to consumers inside the city limits are endangered, permission for irrigation or for use of water outside the city limits may be temporarily or permanently revoked by the city.

(Code 1978, § 10.12.07)

Secs. 110-90--110-120. Reserved.

DIVISION 2. REGULATIONS AND SPECIFICATIONS

Sec. 110-121. Applicability of division.

(a) The provisions of this division shall apply to all water mains, water lines and fire hydrants installed and all extensions of the city water system made from and after the effective date of the ordinance from which this division is derived, regardless of whether such installations shall be original installations or replacements of existing facilities of the city water system.

(b) Specifically excepted from the provisions of this division are the following:

- (1) All facilities of the city water system, including mains, lines and fire hydrants, in existence on the effective date of the ordinance from which this division is derived, provided that all replacements or extensions of such facilities shall be subject to each and every provision of this division; and
- (2) The water system proposed for any subdivision to be within the corporate limits of the city if the written plans and specifications and drawings for such proposed water system were submitted to the city for approval prior to the effective date of the ordinance from which this division is derived, provided that such plans, specifications and drawings and such water system, when installed, shall be in

substantial compliance with all applicable statutes, rules and regulations of the state and its agencies having jurisdiction over the water system.
(Ord. No. 1041, § 4,10-25-1978)

Sec. 110-122. Water mains and lines.

(a) All pipe must be new.

(b) All water mains and lines to be used for fire protection or that may be extended for fire protection shall have a minimum diameter of eight inches and shall consist of one of the following:

(1) Ductile iron, class 50;

(2) D. R. 18 P. V. C-900, plastic; or

(3) In areas with a static pressure of 125pounds or less, S. D. R. 21, class 200.

(c) Plastic pipe shall have a tracer wire installed with it, and it shall be properly bedded.

(d) All pipe shall be bell and spigot neoprene gasketed pipe.

(e) All pipe shall have a minimum cover of 36 inches.

(f) Water lines used only as supply lines with no contemplated use for fire protection may have a minimum diameter of six inches, provided that if any such water line supplies no more than six single-family residential units it may have a minimum diameter of four inches, and further provided that if any such water line supplies no more than two single-family residential units it may have a minimum diameter of two inches. All water lines referred to by subsection (f) shall be subject to the provisions of subsections (a), (b), (c), (d) and (e) of this section, except as to the minimum diameter stated in subsection (b) of this section, and where a line of a minimum diameter of two inches is permitted, a galvanized, plastic or copper line shall be permitted for the same.

(g) All primary service lines shall be looped where possible to avoid dead-end lines and to provide better water to consumers.

(h) Wherever a line shall cross under any driveway, street or highway, whether public or private, such lines shall consist of iron pipe, and plastic pipe shall not be permitted in such instances unless it is encased in metal, filled and sealed at each end.

(Ord. No. 1041, § 1, 10-25-1978)

Sec. 110-123. Fire hydrants.

(a) All fire hydrants shall be 5 1/4-inch fire hydrants with two outlets of 2 1/2 inches and one outlet of 4 1/2 inches.

(b) All fire hydrants shall be of the breakaway type.

(c) All fire hydrants shall be connected to a water main with a minimum diameter of six inches.

(d) All fire hydrants shall have a gate valve between the fire hydrant and the main to which each fire hydrant is connected.

(e) All fire hydrants and fire hydrant tees shall be backed with concrete.

(f) Five and one-fourth-inch fire hydrants shall be installed at minimal intervals of 600 feet.

(g) Gate valves shall be installed, when other lines are attached to the main, and at minimal intervals of 1,000 feet, except for commercial areas where the gate valves shall be at minimal intervals of 600 feet.

(Ord. No. 1041, § 3,10-25-1978)

Cross reference(s)--Fire prevention and protection, ch. 46.

Secs. 110-124--110-140. Reserved.

DIVISION 3. EXTENSIONS

Sec. 110-141. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means the person applying for an extension of the city's distribution system.

Distribution facilities means water mains, valves, fire service lines, meters, service lines, fire hydrants, storage tank pumps and structures and their appurtenances.

Minor distribution facilities means distribution facilities which, in the opinion of the city will cost less than \$5,000.00.

(Code 1978, § 10.12.02(1)(1))

Cross reference(s)--Definitions generally, § 1-2.

Sec. 110-142. Generally.

(a) The city shall determine the necessity for additional distribution facilities. Whenever the capacity of the existing distribution facilities are not adequate, in the opinion of the city, to provide service required by the applicant, or to provide the quantity of water required for fire protection, or whenever the applicant desires water service beyond the limits of the existing water distribution system, the applicant must make application for additional distribution facilities. Once approved by the city, all costs associated with the installation or construction of such additional distribution facilities must be borne by the applicant. The city may determine that it is in the public interest that distribution facilities be installed which have a capacity greater than those required to be installed by the applicant. In such event, the city may pay that portion of the cost which is representative of the cost for the facilities in excess of those required by the city for service to the applicant's property.

(b) The city shall determine the size, type, location, points of connection to the distribution system and points of termination of all distribution facilities.

(c) No distribution facilities shall be installed prior to the applicant's entering into a written contract with the city.

(d) The information furnished in this section is subject to change and may not apply under certain circumstances and is not binding upon the city because the city is not bound except by written contract. Blank contract forms are available at the city office for each type contract.

(Code 1978, § 10.12.02(1)(2))

Sec. 110-143. Extensions of services, installations and connections.

(a) The city shall bear the expense of connecting new users to the city water system from the city water main nearest to the property line of the user to the property line or up to 25 feet from such water main, whichever is the lesser distance, upon the full payment of the applicable tapping fee. If the distance from such water main to such property line shall exceed 25 feet, the user shall bear the expense of completing the desired connection. After the initial 25 feet, the balance *must* be installed by a plumber and approved by the plumbing inspector. All highway crossings shall be at the property owner's expense with the exception being that the city may pay the difference in cost of such if it requires larger pipe than is normally required.

(b) All water meters shall be installed on public rights-of-way or easements and shall not be installed on private property. Such installations shall abut the property line of the user or consumer.

(c) All installations on private property shall conform to the state plumbing code, adopted by reference by the city in section 14-2, and shall be at the expense of the owner of such private property.

(d) All private property owners bringing water service onto their private property shall, at no expense to the city, cause all new lines to be extended beyond any existing or proposed driveways or walkways providing ingress and/or egress to their property. The purpose of this requirement is to avoid the destruction and repair of such driveways or walkways when water service is extended to private property beyond such driveways or walkways at a later date. If any private property owner or developer shall fail to comply with this subsection and it becomes necessary at a later date to take up such a driveway or walkway to extend water service, the cost of taking up and repairing such a driveway or walkway shall be borne by the owner of such private property, and such owner of private property shall reimburse the city for any cost or expense sustained by the city by reason of the same.

(Ord. No. 1041, § 2, 10-25-1978)

Sec. 110-144. Water main extension policy.

(a) The city shall determine the diameter, length and location of all water mains which are to be part of the waterworks system and shall determine where they shall be connected to the system.

(b) Property may be connected to the system only if the city determines that it has the capacity to give service.

(Code 1978, § 10.12.02(1)(2))

Sec. 110-145. Payment for facilities.

If the city is requested to extend a main to provide initial service for property, the applicant requesting the extension shall be required to pay the cost of installing the necessary mains, appurtenant facilities, storage tanks and pumping stations and the cost of lands or easements required. However, part of the cost may be borne by the city if it determines that a portion of the cost is not primarily for the benefit of the applicant.

(Code 1978, § 10.12.02(1)(2))

Sec. 110-146. Reimbursement of costs.

If as a result of a contract with the city all or part of the cost of installing water facilities is paid by some other entity, such as a property owner or an improvement district, the city may agree in that contract to allow reimbursement of all or part of the entity's cost. The reimbursement may include payment of front-foot and per-acre pro rata charges allowed by the city. However, total reimbursement to the other entity shall not exceed its participation in the cost. Furthermore, there shall be no reimbursement for connections made or for pro rata charges collected more than five years after the mains

are placed in service or more than five years after the date of the other entity's contract with the city, whichever is earlier.

(Code 1978, § 10.12.02(1)(2))

Sec. 110-147. Front-foot pro rata charge.

(a) Any entity requesting water service for property which will be served by an existing abutting main installed after June 12, 1984, at the expense of anyone other than the entity which owned the property at the time the main was installed shall be required to pay a front-foot pro rata charge.

b) For the purpose of this division, "front" is defined as the side of the property abutting the main from which service will be received, whether that side actually is a side, a front or rear. If the main abuts more than one side of the property, the city shall have the option of treating the longest side as the front, for the purpose of computing the front-foot charge. If each side of the main is abutted by property to be served by it, the front-foot charge shall be applicable separately to the property on each side. For the purpose of this section, a main is abutting if it will be directly connected by a stub service to the property served.

(c) For water mains up to eight inches in diameter, the front-foot charge for each side of the main shall be \$3.50 for each front foot of the property to be served and shall be in addition to any applicable per acre charge. The city may levy a higher front-foot charge for mains larger than eight inches in diameter.

(d) The front-foot charge shall not be an assessment against the property, but its payment shall be a condition precedent and a continuing condition to the right of connection to and service from an abutting main. Failure of the city to levy or collect the front-foot charge for any reason prior to connection and service shall not constitute a waiver of the charge unless the waiver is in writing and specifically authorized by the city.

(Code 1978, § 10.12.02(1)(2))

Sec. 110-148. Per-acre pro rata charge.

(a) For the purpose of this division, a feeder main is a water pipe line eight inches or more in diameter. In addition to making water service available to abutting property, a feeder main permits the connection and extension of other mains which serve lands substantial distances away.

(b) Any entity requesting water service for property which is benefited by an existing feeder main placed in service after June 12, 1984, at the expense of anyone other than the entity which owned the property at the time the feeder **main was installed shall be required to pay a per-acre pro rata charge.**

(c) The per-acre charge shall be at the rate of \$150.00 an acre for the property to be served by an abutting main and shall be in addition to any applicable front-foot charge. However, the minimum per-acre charge, even for less than one-third of an acre, shall be \$50.00. If the land to be served lies within the specified distance of more than one feeder main, only one per-acre charge shall be levied for any particular acre; but the city may levy the charge for the most distant feeder main.

(d) The per-acre charges shall not be an assessment against the property, but its payment shall be a condition precedent and a continuing condition to the right of connection to and service from an abutting main. Failure of the city to levy or collect the per-acre charge for any reason prior to connection and service shall not constitute a waiver of the charge unless the waiver is in writing and specifically authorized by the city.

(Code 1978, § 10.12.02(1)(2))

Sec. 110-149. Requesting extensions and cost estimates.

(a) Upon request from the applicant, the city will determine the distribution facilities required to serve the applicant's property, provided the applicant furnishes plats, descriptions or other documents to the satisfaction of the city, which accurately depicts the property and its proposed use.

(b) The city may, at its option, prepare cost estimates, upon request by the applicant, for minor distribution facilities. The city will not prepare cost estimates for any other facilities.

(Code 1978, § 10.12.02(1)(3))

Sec. 110-150. Preparation of plans and specifications.

(a) When staff personnel is available, the city may, at its option, prepare plans and specifications upon request of the applicant for minor distribution facilities provided the applicant pays to the city, in advance, the amount of the final cost estimate for the facilities.

(b) The applicant is responsible for the preparation of plans and specifications for all registered professional engineer licensed to practice in the state.

- (1) All plans and specifications must conform to the requirements of
 - a. The city;
 - b. The state health department; and
 - c. Any other federal, state, county or local governmental agencies having jurisdiction.
- (2) All plans and specifications must be approved in advance of construction by:
 - a. The city;
 - b. The state health department;

- c. The state highway department, if any facilities are within the right-of-way of city streets or county roads or streets;
 - d. The county or city having jurisdiction if any part of the facilities are to be located within the right-of-way of city streets or county roads or streets;
 - e. The applicable railroad company whenever facilities are located within a railroad right-of-way;
 - f. All other federal, state, county or local governmental agencies having jurisdiction; and
 - g. Entities such as utilities whose facilities are located within an exclusive easement which will be traversed by the proposed distribution facilities.
- (3) The applicant shall give notice of proposed facilities, except minor distribution facilities constructed by the city at the applicant's expense, by submitting the plans for the facilities or a suitable plat depicting the facilities to the appropriate planning agency for review as follows:
- a. The city, if any part of the facilities are to be located within the territorial jurisdiction; and
 - b. The Carroll County Judge if any part of the facilities are to be located outside of the territorial jurisdiction of the city.

The applicant shall not commence construction of the facilities prior to such review by the planning agency having jurisdiction. Should the planning agency having jurisdiction deny approval, final approval of construction of the facilities will be withheld pending approval by the city.

- (4) The applicant shall pay all fees associated with the review of the plans for the facilities. The applicant shall obtain or cause to be obtained all permits required in connection with the construction of facilities except those permits specifically requiring that the city be designated as the permittee, in which case, the applicant shall prepare and submit to the city all documents necessary for such permits. The applicant shall pay the cost of all fees, bonds and other expenses in connection with obtaining permits.

(c) The applicant must furnish easements for the facilities if suitable public rights-of-way are not available. If the city determines that fee title to any property is required, or that easements on private property are necessary, the applicant must obtain the necessary conveyances in the name of the city for the use and benefit of the city on forms approved by the city and pay all connected costs. All instructions of conveyance shall contain such terms and conditions as may be required by the city, and the applicant shall furnish merchantable title acceptable to the city. If title certificates or abstracts of title are required by the city, the applicant must furnish them and pay all expenses incurred by the city in connection with title examination and preparation of conveyances.

(d) The distribution facilities will not be accepted by the city, and meter connections will not be made prior to the applicant's conformance to this article.
(Code 1978, § 10.12.02(1)(4))

Sec. 110-151. Construction and contracts.

(a) The city may, at its option, construct minor distribution facilities. The applicant shall construct all other distribution facilities.

(b) Three types of contracts are described below:

(1) A regular contract for distribution system facilities applies to the construction of minor distribution facilities by the city. The city prepares the plans and specifications, obtains necessary permits, serves notice to the applicable planning agency, and performs the work or subcontracts for its performance. The applicant must make payment, in advance, to the city in the amount of the final cost estimate plus any other amounts due the city. The applicant shall execute the contract well in advance of the time service is required.

(2) A special contract for distribution system facilities applies to the construction of distributions by the applicant. Under this contract, the applicant must perform the work or subcontract for its performance. The plans and specifications must be prepared by the applicant's engineer as set forth in section 110-150 above. Furthermore, resident inspection of the work must be provided by the applicant's engineer during the time construction is in progress to assure the city that the facilities are constructed in accordance with the plans and specifications. The applicant's engineer must prepare as-built plans which shall depict the facilities constructed and certified by the engineer to conform to the city's requirements. The applicant must furnish the city reproducible copies of the as-built plans and the actual final construction cost, as certified by the applicant's engineer.

(3) Separate contracts will be required if the applicant desires the installation of fire hydrants outside the city limits or on private property or the applicant desires fire service connection to private property.

(Code 1978, § 10.12.02(1)(5))

Sec. 110-152. Charges and fees.

(a) *Special contract fees.* In addition to paying the costs of constructing distribution facilities, the applicant must pay to the city the following charges and fees when facilities are constructed under a special contract for distribution system facilities:

(1) *Special charges; general engineering, administration and overhead.* For facilities installed under a special contract for distribution system facilities, the applicant

shall pay the city an amount determined from the following table to cover the city's general engineering, administrative and overhead cost:

<i>Construction Cost \$</i>	<i>Charge as Percentage of Construction Cost \$</i>
0.00- 1,000.00	10 (minimum charge- 70.00)
1,001.00- 3,000.00	7 (maximum charge- 150.00)
3,001.00- 7,000.00	5 (maximum charge- 280.00)
7,001.00- 10,000.00	4 (maximum charge- 300.00)
10,001.00- 20,000.00	3 (maximum charge- 500.00)
20,001.00- 50,000.00	2.5 (maximum charge- 1,000.00)
50,001.00- 100,000.00	2 (maximum charge- 1,500.00)
100,001.00- 500,000.00	1.5 (maximum charge- 5,000.00)
500,001.00- Greater	1 (maximum charge- 7,000.00)

(2) *Inspection by waterworks personnel.* For periodic inspection of the work by a representative of the city during the period of construction, the applicant shall pay the city at the rate of \$20.00 per inspection trip or \$10.00 per hour, whichever is greater. Such inspection shall not relieve the applicant of the duty to provide inspection as provided in section 110-151.

(b) *Meter connection charges.* In addition to the costs of the construction of distribution facilities, the applicant shall pay the customary connection charge, then being collected by the city, prior to the installation of meters, as established in sec. 110-182.

These charges are subject to change, and will be greater when the anticipated cost of constructing the service line is substantially higher than normal due to streets thicker than two inches, or other conditions which will increase the cost of construction. Furthermore, the charges for larger meters will be greater and will be computed by the city upon request.

(c) *Pro rata charge.* In certain areas of the distribution system, a pro rata charge based on front footage and/or acreage may apply. The applicant must pay all such applicable charges upon execution of the contract for distribution facilities.
(Code 1978, § 10.12.02(1)(6))

Sec. 110-153. Refunds.

In particular circumstances under which refunds are paid are set forth in each contract between the city and the applicant. The applicant may be entitled to a refund based on front footage for property, other than that owned by the applicant, which received water service by a connection to distribution facilities construction contract. An addendum to the contract for distribution system facilities will cover such refund.

(Code 1978, § 10.12.02(1)(7))

Sec. 110-154. Special contract.

There is a need for a special contract for water distribution system facilities that can be used by the city water department which is as follows:

SPECIAL CONTRACT
FOR
DISTRIBUTION SYSTEM FACILITIES

This agreement is made this day of , between the City of Eureka Springs (hereinafter called city) and (hereinafter called applicant).

Witnesseth

1. Unless otherwise specified in paragraph 17 of this agreement, the applicant agrees to furnish all labor and materials and bear the entire cost of constructing facilities.
2. The applicant shall prepare detailed plans and specifications for facilities which incorporate city material and installation requirements. No work may be commenced until the plans and specifications are approved by the city in writing. After approval, the plans and specifications become a part of this agreement, and the applicant agrees to perform the work in strict accordance with this agreement. At the discretion of the city, and in every instance when the total construction cost of facilities as estimated by the city exceeds \$5,000.00, the plans and specifications shall be prepared by or under the direct supervision of an engineer registered to practice engineering in the state (hereinafter called the engineer). After commencement of construction of facilities for which plans and specifications have been prepared by or under the direct supervision of the engineer, the work shall be continuously supervised or inspected by the engineer, or by an individual who is under his direct supervision and who is competent to supervise or inspect the work being performed. The engineer shall submit written inspection reports to the city and the applicant during the progress of the construction of facilities. The applicant shall hire the engineer and bear all engineering costs. Nothing herein shall preclude the city, at its discretion, from inspecting the work periodically.
3. The applicant shall give notice of the applicant's proposed facilities by submitting the plat attached to this agreement or plans for facilities which have been approved by the city to the appropriate agency for review as follows: the City of Eureka Springs if any part of the facilities are to be located within its territorial jurisdiction, and the county judge if any part of the facilities are to be located outside the territorial jurisdiction of the city but within the county. The applicant shall not commence construction of facilities prior to such review by the aforesaid agencies having jurisdiction.
4. In addition to conformance to city requirements, all plans and specifications for facilities shall conform to the requirements of the state health department and any other

federal, state, county or local governmental agencies having jurisdiction over any part of the work covered in this agreement, including those agencies responsible for complying with the requirements of aforesaid governmental agencies and for the submittal of plans and specifications to all such agencies and for review, and paying the cost of all fees and other connected expenses. The applicant shall not commence construction of facilities prior to approval of the plans and specifications by the aforesaid agencies and furnishing the city written evidence of such approval. The applicant shall construct facilities in such manner that they will not interfere with proposed future street, highway and drainage improvements.

5. The applicant shall obtain or cause to be obtained all permits required in connection with the construction of facilities except those permits specifically requiring that the city be designated as permittee; in which case the applicant shall prepare and submit to the city all documents necessary for such permits. The applicant shall pay the cost of all fees, bonds and other expenses in connection with obtaining permits. The applicant shall not commence construction of facilities prior to the issuance of all required permits, shall be responsible for conforming with all provisions of the permit, and shall coordinate all post-construction inspections required by the issuer of permits.

6. Streets and easements where the facilities are to be constructed shall be opened up and graded by the applicant to ± 0.1 foot of final grade. Property lines adjacent to the location for facilities shall be staked by the applicant prior to commencing construction of facilities. If rights-of-way not now in existence are required for facilities, an easement, in a form acceptable to the city, shall be acquired by the applicant and conveyed to the city for the use and benefit of the city.

7. The total pro rata charge applicable to the applicant's property is \$ _____, which shall be paid by the applicant upon execution of this agreement in addition to other amounts specified in this agreement. This charge is based upon _____ feet at \$ _____ per foot and _____ acres at \$ _____ per acre.

8. If any of the aforesaid facilities have been installed by the city prior to the execution of this agreement, the city statement of the cost of such facilities shall be paid by the applicant upon execution of this agreement, which payment shall be in addition to the other amounts specified in this agreement. The parties acknowledge that the foregoing statement of cost is _____ for the following:

9. The term facilities also includes service lines at the following locations:

10. The applicant shall pay to the city the sum of \$20.00 per day or \$10.00 per hour, whichever amount is greater, for each day that a city representative inspects the applicant's work under this agreement. The hourly rate for Saturday, Sunday and holidays shall be 150 percent of the aforesaid rate. Such inspections shall not relieve the applicant of the duty to provide inspection as specified in paragraph 2 of this agreement. The applicant shall pay to the city all other costs for services rendered by the city. In addition to the foregoing, the applicant also agrees to pay to the city _____ percent of the

applicant's total cost of the work to cover city engineering and overhead expenses, not to exceed \$

11. After completion of the construction of facilities, the applicant shall file with the city a set of plans prepared by the engineer in reproducible form which depicts the facilities as finally constructed, including reference distances to mains, service lines, valves and other appurtenances from property corners, street rights-of-way, permanent structures or objects in accordance with the city's standard practice, and a certificate showing the total construction costs of the facilities, and if required by the city, a copy of invoices for materials used in the construction of the facilities. The facilities will not be accepted by the city until such plans, certificates and documents are submitted and approved.

12. Upon completion of the construction of the facilities and acceptance by the city, ownership of the facilities shall vest by this agreement in the city, for the use and benefit of the city without the necessity of any other conveyance. The facilities shall become a part of the distribution system of the city. Except as may be specified in an addendum to this agreement, the city shall have the right to connect to and to make extensions from the facilities without payment to the applicant.

13. This is an agreement for installation of facilities only and is not a contract for water service. The applicant acknowledges that:

(1) The furnishing of water by the city is a governmental function, and that the city does not agree to furnish any specific amount of water or water pressure;

(2) Water will be delivered only to customers who enter into separate service contracts with the city; but the right to contract, and the type of service to be rendered shall always be subject to such rules, regulations and policies of the city as may be in effect from time to time; and

(3) Water furnished under such separate service contracts will be supplied to such customers at whatever pressure and quantity available from time to time without liability for damages due to high or low pressure or stoppage of flow.

14. If within two years after acceptance of the facilities by the city, any part of the facilities is damaged or valve boxes are covered or removed or if within four years after acceptance of the facilities by the city any part of the facilities is found to be defective because of faulty workmanship or materials or is found not to be in strict accordance with the plans and specifications, the applicant shall, after notice from the city, promptly remedy the defects. Upon the applicant's failure to remedy such defects, the city shall have the option of performing such work at the applicant's expense.

15. If any part of the facilities require relocation, in the opinion of the city, within five years after acceptance of the facilities by the city because of the construction of street, road, highway or drainage improvements, the applicant shall pay the cost of the relocation of the facilities.

16. The applicant designated _____ as engineers who will provide the engineering services described in this agreement.

17. Upon the city's acceptance of the facilities, the city shall pay the applicant, less any amounts due the city, the following sums as the city's contribution to construction of the facilities:

18. The applicant acknowledges that providing water service from or connection to the facilities will not be commenced by the city prior to the applicant's fulfilling all its obligations in strict accordance with the terms of this agreement, including the payment of amounts due the city.

19. This Agreement contains the entire agreement, understanding and stipulation between the parties hereto. It fully and finally supersedes any and all prior negotiations, promises, agreements or understandings between the parties hereto pertaining to the subject matter hereof. The Parties have had full possession of any and all facts with regard to the requirements, claims or rights of each other, and full access to respective counsel. The terms of this Agreement are contractual, not a mere recital, and may be enforced in court. This Agreement is executed in the State of Arkansas and in all respects shall be interpreted, enforced and governed under the laws of said State. Except as stated herein, the terms of this Agreement are executed without reliance upon any representation by the city or any of its representatives, agents, employees, officers or officials.

20. The city and applicant acknowledge and agree that the provisions of this agreement are severable; and if any of these provisions shall contravene or be invalid under the laws of the United States, the state or any other jurisdiction, such contravention or invalidity shall not invalidate the whole agreement, but it shall be construed as if not containing the particular provision or provisions held to be invalid and the rights and obligations of the parties shall be construed and enforced accordingly.

21. The Applicant will indemnify and save harmless the city herein from any loss, claim, expense, attorney fees, costs, demand, or causes of action of any kind or character through the assertion by any person of a claim or claims connected with the subject matter of this Agreement caused, counseled, initiated, aided, assisted or advanced by the Applicant, and from any loss incurred directly or indirectly by reason of a falsity of misrepresentation herein by the Applicant.

CITY OF EUREKA SPRINGS

ATTEST:

MAYOR

CITY CLERK/TREASURER

APPLICANT NAME

TITLE

Estimated Total Construction Cost--\$

Final Total Construction Cost--\$
(Code 1978, § 10.12.02(2))

Sec. 110-155. Pro rata charge addendum to special contract.

(a) There is a need for a pro rata charge addendum to the special contract for distribution system facilities that can be used by the city water department which is as follows:

PRO RATA CHARGE ADDENDUM
TO
SPECIAL CONTRACT FOR DISTRIBUTION SYSTEM FACILITIES

This addendum is executed simultaneously with and becomes part of the special contract for distribution system facilities entered into between the city and the applicant on

1. Pursuant to its current rules, the city may levy a front-foot pro rata charge upon customers whose service lines are hereafter directly connected at right angles to the water facilities installed under the term of the contract. Under current rules, that pro rata charge is \$ _____ per foot for the property served.
2. Under some circumstances, pursuant to its current rules, if one of the facilities to be installed under the contract, solely at the applicant's expense, without city participation in the cost, is a feeder main, the city may levy a per-acre pro rata charge upon certain customers who hereafter connect to a public water main abutting their property and are benefited by the feeder main. Under current rules, the per-acre charge is at the rate of \$ _____ an acre for the property benefited; the minimum per-acre charge is \$ _____. Current city rules define a feeder main as any water pipe line eight inches or greater in diameter, and property is deemed benefited by a feeder main.
3. During the fourth quarter of each year, the city shall prepare a statement showing the number of new service connections for which it has collected pro rata charges hereunder; the statement shall show, also, the amount and type of pro rata charges collected. Thereafter those sums shall be paid to the applicant, without interest, subject to the following conditions and exceptions:

- a. The city reserves the right to amend its pro rata charge rules in any respect and specifically reserves the right to abandon, increase or decrease pro rata charges. If a pro rata charge is increased, the applicant shall not share in the increase.
 - b. No pro rata charge shall be paid directly to the applicant unless actually allowed by the city.
 - c. No pro rata charge shall be paid to the applicant if the charge is declared to be unlawful.
 - d. If any pro rata charge previously paid to the applicant is declared unlawful. The applicant shall refund any such payment promptly upon demand.
 - e. In no event shall pro rata charges collected more than five years after the date of the contract be paid to the applicant.
 - f. In no event shall the pro rata charges paid to the applicant exceed the amount of the applicant's participation in the cost of the water mains to be constructed under this addendum.
4. The pro rata charges payable to the applicant under the terms of this addendum pay pass to the applicant's heirs, personal representatives or legatee; but no assignment or other transfer of refund rights, whether by voluntary action of the applicant, operation of law, or through legal processes, shall be binding upon the city unless such transfer is requested, in writing, and approved by the city, in writing. The purpose of this restriction is not to prohibit transfers, but to ensure that the city has notice satisfactory to it of such transfers and to limit multiple transfer and payees at the city's option.

CITY OF EUREKA SPRINGS

ATTEST:

CITY CLERK/TREASURER

MAYOR

APPLICANT NAME

TITLE

DATE: _____

(b) A plat is attached to and incorporated in this agreement, showing water mains and appurtenances which the applicant wishes to have installed to serve the property designed on the plat.

(Code 1978, § 10.12.02(3))

Sec. 110-156. Water mains and lines.

(a) All pipe used for water mains and lines must be new.

(b) All water mains and lines to be used for fire protection or that may be extended for fire protection shall have a minimum diameter of eight inches and shall consist of one of the following:

(1) Cast iron, class 150;

(2) Ducted iron, class 50;

(3) D.R. 18 P.V.C. plastic; or C-900

(4) In areas with a static pressure of 125 pounds or less, S.D.R. 21, class 200.

(c) All plastic pipe shall have a tracer wire installed *with* it, and it shall be properly bedded.

(d) All pipe shall be bell and spigot neoprene gasketed pipe.

(e) All pipe shall have a minimum cover of 36 inches.

(f) Water lines used only as supply lines with no contemplated use for fire protection may have a minimum diameter of six inches, provided that if any such water line supplies no more than six single-family residential units it may have a minimum diameter of four inches, and further provided that if any such water line supplies no more than two single-family residential units it may have a minimum diameter of two inches; all water lines referred to by this subsection shall be subject to the provisions of subsections (a), (b), (c), (d) and (e) of this section, except as to the minimum diameter stated in subsection (b), and where a line of a minimum diameter of two inches is permitted.

(g) All primary service lines shall be looped where possible to avoid dead-end lines and to provide better water to consumers.

(h) Wherever a line shall cross under any driveway, street or highway, whether public or private, such lines shall consist of iron pipe; and plastic pipe shall not be permitted in such instances unless it is encased in metal, filled and sealed at each end.

(Code 1978, § 10.12.03)

Sec. 110-157. Fire hydrants.

(a) All fire hydrants shall be 5 1/4-inch fire hydrants with two outlets of 2 1/2 inches and one outlet of 1 1/2 inches.

- (b) All fire hydrants shall be of the breakaway type.
- (c) All fire hydrants shall be connected to a water main with a minimum diameter of six inches.
- (d) All fire hydrants shall have a gate valve.
- (e) All fire hydrants and fire hydrant tees shall be backed with concrete.
- (f) All 5 1/4-inch fire hydrants shall be installed at minimal intervals of 600 feet.
- (g) Gate valves shall be installed, when other lines are attached to the main, and at minimal intervals of 1,000 feet, except for commercial areas, where the gate valves shall be at minimal intervals of 600 feet.
(Code 1978, § 10.12.04)

**Cross reference(s)--Fire prevention and protection, ch. 46.
Secs. 110-158--110-180. Reserved.**

DIVISION 4. FEES AND CHARGES

Sec. 110-181. Payment.

All deposits and fees payable under this article shall be payable to the office of the municipal waterworks systems at its designated office.
(Code 1978, § 10.04.03)

Sec. 110-182. Tap fee and meter deposit.

(a) All users of water from the municipal waterworks system shall be charged for each meter connection upon such system and shall have all use of such water metered by a water meter provided by the city and shall pay a meter connection fee at the following rate:

	Inside City	Outside City
Three-fourths-inch meter	\$350.00	\$450.00
One-inch meter	400.00	500.00
Two-inch meter	500.00	600.00
Over two-inch meter	At cost	At cost
<i>Irrigation meter</i>	<i>At cost</i>	<i>At cost</i>

(b) All users of water from the municipal waterworks system shall be charged a water deposit fee for each meter excluding those in service on the date of adoption of the ordinance from which this division is derived at the following rate:

Three-fourths-inch meter (or smaller)	\$ 50.00
One-inch meter	\$ 100.00
Two-inch meter	\$ 1,500.00
Over two-inch meter	\$ 2,000.00
<i>Irrigation meter</i>	\$ <u>50.00</u>

(c) If the Once of the Mayor shall deem it necessary and prudent, an additional deposit may be required of any water user to secure payment of any charges which may be incurred with regard to such use, in the amount to be established by the Office of the Mayor. If such an additional deposit shall be imposed under this section, the user shall have the right to request a review of such requirement by the city council.

(d) A meter deposit shall be refunded to a customer who terminates his account with the municipal waterworks system upon prior notice to the Office of the Mayor, provided the account is in good standing and all charges have been paid at the time of such termination. A meter deposit shall be refunded to a consumer, who has maintained his account with the municipal waterworks system in good standing for three continuous years after paying such deposit, upon submission to the Once of the Mayor of a written request for such refund. In either case, the consumer may direct that the deposit be paid, in whole or in part, directly to him or applied, in whole or in part, to charges against his account with the municipal waterworks system.

(e) Code 1978, § 10.04.01)

Sec. 110-183. Operational need.

The council finds and declares that the rates charged for municipal water services will produce a total revenue sufficient to pay the total operation and maintenance expenses of the waterworks system, and together with the revenues generated for municipal wastewater service, will provide for the payment of the principal and interest, as they shall fall due and payable, of the city's existing water and sewer refunding and improvement revenue bond issue, to be authorized. The rates set forth in this division shall not be reduced until all bonds and all coupons have been fully paid, and shall, when necessary, be increased in an amount sufficient to provide the sum required to retire such obligations. A copy of the schedule of such obligations shall at all times be kept on file at the Office of the Mayor and shall be open to the inspection of all persons concerned. (Code 1978, § 10.04.04)

Sec. 110-184. Rates; billing.

(a) The following monthly rates and charges for water service are established, which the council finds and declares are fair, reasonable and necessary:

	Inside City Limits	Outside City Limits
For the first 2,000 gallons of water consumption per month or portion thereof, minimum	\$6.36	\$12.72
For the next 8,000 gallons of water consumption per month or portion thereof, per 1,000 gallons	2.34	4.68
Over 10,000 gallons of water consumption per month or portion thereof, per 1,000 gallons	3.18	6.36

(b) A standby charge equal to the minimum billing will be charged although the water is cut off at the meter. This standby charge does not apply to a permanently vacated location.

(c) Statements for water service shall be rendered no more often than monthly and if not paid within ten days from the billing date, a penalty of ten percent of the amount of the bill shall be added. Water service shall be disconnected on overdue accounts according to the adopted policy.

(d) If a water meter is not accessible to be read, a re-reading charge of \$5.00 will be assessed.

(e) If any user of water from the municipal waterworks system shall receive a statement for water services and shall deem that the statement reflects an incorrect reading by the city of the meter measuring water used by the user, the user may request the city to again read such meter provided that such request is in writing, is signed by the user, and is received by the city not later than the due date of such statement. If the city, in response to such request, determines that such meter was correctly read with respect to such statement, the user shall be assessed a service charge in the sum of \$5.00, billable to the user in the next monthly statement rendered to the user; and the monthly statement prompting the user's request for a second reading shall be fully paid not later than the close of the business day immediately following the business day on which the user is notified of such determination by the city, or on the due date for the statement, whichever occurs later. If the city, in response to such request, determines that such meter was misread resulting in the user's being overcharged, there shall be no service charge assessed by the city; and the user shall receive an appropriate adjustment in the monthly statement prompting the user's request for a second reading of the meter.

(f) In the event of a water leak, an adjustment may be granted in accordance with the adopted policy.

(g) All rates described in subsection (a) of this section, as amended, shall be subject to an annual review which may result in a fee adjustment beginning with the January 1st billing period of each year.

- (1) The fee adjustment shall be based on the South Urban Consumer Price Index, All Urban Consumers (CPI-U) for November of the preceding year as shown in the release from the Bureau of Labor Statistics.
- (2) The January billing period for those rates based on meter readings will begin with the December 15th reading of the preceding year.
- (3) In calculating the annual adjustment, the financial director shall subtract the prior year's CPI-U rate from the current year's CPI-U rate and divide the answer by the prior year's CPI-U rate to arrive at the percent of increase/decrease. The existing utility rate is multiplied by the percent of increase/decrease and the adjustment amount is added to or subtracted from last year's rate. The financial director shall round off all final calculations to the nearest cent where the rate provides for cents and to the nearest dollar where the rate does not provide for cents.

For example: The South Urban Consumer Price Index, All Urban Consumers (CPI-U) for November, 1998, rate was 159.6 and for November, 1999, was 163.5.

$$\frac{163.5 - 159.6}{159.6} = 2.44\%$$

$$\$6.00 + 2.44\% \text{ increase} = \$6.1464 \text{ rounded to } \$6.15$$

- (4) A rate increase or decrease shall not exceed three percent in any year.
(Code 1978, § 10.04.02; Ord. No. 1844, § 1, 10-5-2000)

Sec. 110-185. Bulk water sales.

(a) All persons desiring to purchase bulk water from the city shall pay for the water and obtain a receipt at city hall and present the receipt at the public works department.

(b) Bulk water rates shall be four times the residential water rates inside the city limits, as established in section 110-184; and the minimum rate shall be based on the first 2,000 gallons of bulk water sold or portion thereof.
(Code 1978, § 10.04.06)

Secs. 110-186--110-220. Reserved.

ARTICLE IV. CROSS CONNECTIONS
DIVISION 1. GENERALLY

Sec. 110-221. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Approving authority means the mayor or his designated representative.

Auxiliary water supply means any water supply on or available to the property other than the city's water supply.

Backflow means flow of water or other liquids, mixtures or substances under positive or reduced pressure in the distribution pipes of a potable water supply from any source other than its intended source.

Backflow compliance officer means the person authorized by the approving authority to perform inspections of the owner's facilities for the purpose of determining compliance with the city's cross connection program.

Backflow prevention assembly means a mechanical backflow prevention assembly assembled with two shutoff valves, four test cocks, two internally loaded checkvalves, and a pressure relief valve provided as a complete assembly by a single manufacturer and used to prevent the flow of contaminants or pollutants into the city's water system. The assembly must have the approval of the Foundation for Cross-Connection Control and Hydraulic Research at the University of Southern California, the state department of health, and the city.

Backflow prevention device means a mechanical backflow preventor without the shutoff valves. It does not have shutoff valves on either side of the backflow prevention mechanism. Any backflow prevention assembly without the shutoff valves is called a device.

Bypass means any arrangement of pipes, plumbing or hoses designed to divert the flow around an installed device or assembly through which the flow normally passes.

Certified assembly repair technician means a person certified by the state department of health as an assembly repair technician.

Certified assembly testing technician (tester) means a person certified by the state department of health as an assembly testing technician.

Containment means a method of cross connection control requiring a backflow prevention assembly at point of service connection to the city's water system.

Contaminant means a substance that will impair the quality of the water to a degree that it creates a health hazard.

Cross connection means any actual or potential connection between the city's water system and a source of contamination or pollution.

Cross connection control means use of backflow prevention assemblies, methods and procedures to prevent contamination or pollution of a potable water supply through cross connections.

Degree of hazard means danger posed by a particular substance or set of circumstances.

Detector double checkvalve assembly (DDCVA) means a DCVA with an additional, smaller DCVA assembly with a flow detector meter in parallel; used to detect system leaks and unauthorized use.

Detector reduced pressure zone assembly (DRPZA) means an RPZA with an additional, smaller RPZA assembly with a flow detector meter in parallel; used to detect system leaks and unauthorized use.

Domestic means plumbing as defined by the state plumbing code and is not associated with designated fire protection water service lines and systems.

Double checkvalve assembly (DCVA) means a backflow prevention assembly consisting of two independently operating checkvalves, four test cocks, and two shutoff valves. It is only appropriate for use against non-health hazards. DCVA can be subjected to backpressure.

Fire protection system means a system consisting of pipes, sprinklers, valves, fixtures, fittings, ponds, tanks, water storage vessels and fire hydrants that are intended and used exclusively for fire protection.

Isolation means a method to confine a potential source of contamination to the non-potable system being served and to provide a backflow prevention mechanism at each actual or potential cross connection.

Multiple services means two or more services. If two or more water agencies are involved, the multiple service connections constitute an auxiliary source of water on the property.

New construction means construction of a new facility, alteration or addition to an existing facility, or modification or addition to existing plumbing and fire protection systems.

Owner means a person who possesses any interest in the structure or property to which such ownership relates.

Permit means a document issued by the city which allows the use of a backflow prevention assembly.

Person means any individual, partnership, company, public or private corporation, political subdivision of the state or federal governments, or any other legal entity.

Pollutant means a foreign substance which will degrade the quality of the city's water system and constitute a hazard if allowed to enter into the system.

Pressure vacuum breaker (PVB) means a backflow prevention assembly consisting of two independently operating checkvalves, two test cocks and two shutoff valves.

Program means the city's cross connection program.

Reduced pressure zone assembly (RPZA) means a backflow prevention assembly consisting of four test cocks, two shutoff valves and two independently operating spring-loaded checkvalves with a reduced pressure zone between the checks. The zone contains a relief port which will open at atmosphere if the pressure in the zone falls within two psi of the supply pressure. The assembly provides protection against both backpressure and back-siphonage.

Retrofit means replacement of an existing device or backflow prevention assembly when the specifications or condition of the device or assembly are not adequate for the degree of hazard found on the property as defined by this program.

Service connection means a piping connection between the city's water main and a property owner's system.
(Code 1978, § 10.14(2))

Cross reference(s)--Definitions generally, § 1-2.

Sec. 110-222. Penalties.

Any owner determined to be guilty of a violation of any provision of this article shall be deemed guilty of a misdemeanor and shall be subject to the following procedures, penalties and costs:

- (1) Any owner found in violation of any provision of this article shall be served by the approving authority with written notice stating the nature of the violation, describing the penalty applicable to the violation, and providing a reasonable time limit for its satisfactory correction. The owner shall, within the period of time stated in such notice, permanently cease all violations. The owner may deliver by certified mail to the backflow compliance officer, within five days of receipt of

such notice, a written request for a hearing before the approving authority; and at the hearing, the owner shall be given an opportunity to show cause why the notice should be rescinded or modified.

- (2) Any notice issued pursuant to this article may provide one or more of the following procedures or penalties:
 - a. A compliance directive mandating a compliance time schedule and prescribing procedures which would bring the owner into compliance directive.
 - b. Withdrawal of the owner's backflow prevention assembly permit and/or termination of water service as a result of failure to comply with a compliance directive.

Any person convicted for a violation of any provision of this article shall be guilty of a misdemeanor and subject to section 1-4.

- (3) The approving authority shall utilize this article and the cross connection program in the initial issuance of procedures and penalties set forth in notices issued pursuant to this article and in the administrative adjustment or amendment to any such procedure or penalty as a result of a hearing requested by the owner pursuant to the provisions of this article. No action to withdraw an owner's permit shall be final until the approving authority has given notice of and conducted the show-cause hearing provided for in the enforcement response plan unless it has been determined that the continuance of water service could endanger the public health due to possible contamination of the city's water system.
- (4) Any person violating the provisions of this article shall become liable to the city for any expense, loss or damage occasioned the city by reason of such violation.
- (5) The listing of procedures and penalties in this article shall not preclude other appropriate judicial remedies available with reference to any violation of this article. The city may petition any court of pertinent jurisdiction to grant injunctive or other legal or equitable relief by reason of violation. No judicial action against an owner to collect a civil penalty for violation of this article shall be commenced without a majority vote of the council.

(Code 1978, § 10.14(XVII))

Sec. 110-223. Protection of backflow prevention assemblies.

(a) 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 a backflow prevention assembly.

(b) No person shall cover a backflow prevention assembly vault with earth or pavement or render it inaccessible.

(Code 1978, § 10.14(XIV))

Sec. 110-224. Powers and authorities of inspectors.

(a) The backflow compliance officer, representatives retained by the city, and other duly authorized city inspectors bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, and testing to verify compliance with the provisions of this article. The backflow compliance officer and/or the designated representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper or other industries beyond that point having a direct bearing on the determination of the degree of hazard to the city's water system. Authorized personnel, however, shall have authority to inspect and copy records pertaining to the threat of a hazard to the city's water system.

(b) An owner may request that specific information which must be submitted to the approving authority be kept confidential. A statement notifying the owner that the information submitted will be available to the public without restriction shall be included on each questionnaire. The statement shall also notify the owner that the approving authority will follow the requirements of 40 CFR 2 in its evaluation, approval or denial of each owner's request for confidentiality. Generally, to be considered confidential, information must meet one or more of the following:

- (1) It would have to divulge substances, devices or processes that are patented or for which patents are being sought;
- (2) It would have to divulge financial data; and
- (3) The owner would have to employ processes or produce substances the nature of which is "Classified" (for military, intelligence, nuclear power, and some space exploration industries).

(c) When confidentiality status is granted, confidential material shall be removed from the files available for public inspection and secured under control of the approving authority.

(d) The owner's property shall be available to the representatives of the approving authority at all reasonable times for determination of whether cross connections or other structural or sanitary hazards, including any violations of the program, exists.
(Code 1978, § 10.14(XV))

Sec. 110-225. Variance.

(a) Requests for deviations or relief from any of the provisions of the program shall be submitted in writing to the approving authority. The authority shall not deviate from the provisions of this article, but it may grant a variance in areas not addressed by this article if the request is not in conflict with the spirit and intent of the cross connection control program. Requests for the use of devices other than approved backflow prevention assemblies shall be accompanied by supporting technical data.

(b) An owner shall not proceed with any construction or installation for which a request for deviation has been submitted until receiving written permission from the backflow compliance officer.
(Code 1978, § 10.14(XVI))

Sec. 110-226. Manual of cross connection control.

The provisions set forth in the most recent edition of the Manual of Cross Connection Control, published by the Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California, except such portions of the manual as are deleted, modified or amended by this article is adopted by reference in this section as if fully set forth, and the provisions thereof shall be controlling within the city. A copy of the manual has been filed in the office of the backflow compliance officer for inspection and reference by all interested persons.
(Ord. No. 1678, § 1, 10-10-1995)

Sec. 110-227. Purposes.

The purposes of this article are to:

- (1) Protect the public potable water supply of the city from the possibility of contamination or pollution from backflow into the public water system.
- (2) Promote the elimination or control of existing cross connections, actual or potential, between the owner's potable water system and non-potable water systems, plumbing fixtures and industrial piping systems.
- (3) Provide for the maintenance of a continuing program of cross connection control that will systematically and effectively prevent the contamination or pollution of all potable water systems.

(Code 1978, § 10.14(1))

Sec. 110-228. Approving authority.

(a) The public water system (PWS) regulations and the state plumbing code are complementary in protecting the consumer from contamination introduced through cross connections. The PWS regulations basically are designed to protect the public water distribution system from contamination, and the plumbing code is designed to protect private potable water plumbing from backflows.

(b) Installation of an approved, properly functioning backflow preventor on the owner's service line will be sufficient to protect the public water distribution system from backflow; however, this arrangement will not protect the users of the building's potable water plumbing where the cross connection occurs. Such a cross connection control

program is called a containment system, since any potential damage from a cross connection is contained within the plumbing of the facility where it occurs.

(c) To protect the users within the building itself, each device or plumbing fixture which contains a cross connection must be individually protected by an approved cross connection control device. The state plumbing code so requires; and such a program is referred to as an isolation program, since any contamination from a cross connection is isolated to the plumbing device where the cross connection occurs.

(d) The approving authority shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow of contaminants through the water service connection. The approving authority shall take action as necessary to meet the goals of the program.

- (1) If in the judgment of the approving authority an approved backflow prevention assembly is required at the owner's water service connection for the safety of the public water system, the backflow compliance officer shall give notice in writing to the owner.
- (2) On new installations, the backflow compliance officer shall provide inspection and review of plans in order to determine if a backflow prevention assembly shall be required.
- (3) For property with backflow prevention assemblies existing prior to the adoption of the ordinance from which this article is derived, the backflow compliance officer shall perform a review of plans or inspection of property and inform the owner in writing of any retrofit required, the method of achieving the retrofit and the time allowed for the retrofit to be made.
- (4) The approving authority shall not allow any cross connection to remain unless it is protected by an approved backflow prevention assembly for which a permit has been issued and which shall be regularly tested to ensure satisfactory operation.
- (5) The backflow compliance officer shall inform the owner in writing of any program compliance failure. If the owner fails to comply with the necessary correction, the backflow compliance officer shall inform the owner in writing that the water service to the owner's property will be terminated. If the owner informs the city of valid, extenuating circumstances which may delay the correction, a time extension may be granted by the approving authority.
- (6) If the approving authority determines that a serious threat to the public health exists, any water service shall be terminated immediately.
- (7) The approving authority shall allow only certified assembly testing technicians to test backflow prevention assemblies and only certified assembly repair technicians to

maintain and to repair backflow prevention assemblies. Installation shall be accomplished by personnel licensed to do so by the state department of health.

- (8) A program to issue a permit for each authorized backflow prevention assembly shall be administered by the approving authority. A permit shall not be renewed if the owner has not complied with the requirements of this program.
- (9) A routine inspection program shall be administered by the approving authority for all water users. This program shall continually assess the water system for potential hazards which water users may pose; and, when warranted, the authority shall require that appropriate backflow prevention assemblies be installed.
(Code 1978, § 10.14(3))

Sec. 110-229. Owner responsibilities.

Owners shall comply with all requirements of the program, and they shall:

- (1) Eliminate all cross connections or install an approved backflow prevention assembly on the property.
- (2) Retrofit unapproved existing backflow preventers should they be relocated, require more than minimal maintenance, or constitute a health hazard as a result of faulty operations or maintenance.
- (3) Have any malfunction of the backflow prevention assembly corrected by a backflow assembly repair technician.
- (4) Inform the backflow compliance officer of proposed or modified cross connections and existing cross connections which the owner is aware of but which the approving authority has not identified.
- (5) Not install a bypass around any backflow prevention assembly unless there is a backflow prevention assembly of the same type in the bypass.
- (6) Ensure that the type of backflow prevention assembly and the installation are approved by the backflow compliance officer.
- (7) Obtain a permit from the approving authority for any private well or other private auxiliary water supply. The approving authority may require the owner to have a backflow prevention assembly installed if a private water source is maintained, even if it is not cross connected to the city's water system.
- (8) Advise the backflow compliance officer of any plumbing installed to provide potable water for domestic purposes which is on the city's side of the backflow prevention assembly.

- (9) Pay all related annual fees.
- (10) Have certified inspections and operational tests made on all backflow prevention assemblies at least once per year. The approving authority may require certified inspections at more frequent intervals when there is potential for hazard. Inspections and tests shall be at the owner's expense. Operational tests shall be performed by a certified assembly testing technician.
- (11) Install two backflow prevention assemblies in parallel if uninterrupted water service is desired during testing or repairing.
- (12) Submit to the approving authority for approval, within the time specified by the backflow compliance officer's written notice, installation plans for the appropriate backflow prevention assembly. The owner shall be responsible for the installation expenses. The owner's failure, refusal or inability to install, maintain and test required backflow prevention assemblies shall result in termination of the owner's water service until all requirements have been met satisfactorily.
- (13) Ensure that only master plumbers licensed by the state as certified assembly repair technicians accomplish installations, repairs and maintenance on domestic backflow prevention assemblies. Assemblies for fire protection lines tapped from domestic service lines shall meet the same criteria.
- (14) Ensure that only certified assembly repair technicians licensed by the state install, repair and maintain fire protection service line backflow prevention assemblies.
(Code 1978, § 10.14(IV))

Sec. 110-230. Absence of backflow prevention assemblies.

(a) An approved backflow prevention assembly shall be installed where the degree of hazard dictates. Time restraints will be established based on the degree of hazard. Installation plans shall be approved and construction permits issued by the approving authority prior to starting installation. When the backflow compliance officer has accepted the installation, an assembly permit shall be issued by the approving authority.

(b) Approved backflow prevention assemblies shall be installed at the owner's property line immediately after the meter, if one is installed, or at other locations acceptable to the approving authority.
(Code 1978, § 10.14(V))

Sec. 110-231. New construction installations.

The owner/contractor shall complete an assembly permit application form when applying with the approving authority for a water service connection. The backflow

compliance officer shall review the application and the assembly installation plans. After approving the application and the installation plans, the officer shall issue a backflow prevention assembly permit. The backflow compliance officer shall inspect and approve the assembly installation prior to approving connection to the city's water service line. (Code 1978, § 10.14(VI))

Sec. 110-232. Approved backflow prevention assembly.

Any backflow prevention assembly required by the program shall be a model and size approved by the state department of health and the approving authority. (Code 1978, § 10.14(VII))

Sec. 110-233. Periodic testing.

(a) RPZAs, DCVAs, and PVBs shall be tested and inspected at least once annually by the backflow compliance officer. Periodic testing shall be performed by the backflow compliance officer, depending on the degree of hazard identified by the officer.

(b) Any backflow prevention assembly which fails a performance test shall be repaired or replaced at the owner's expense as directed by the authority. Upon completion of the necessary repairs, the owner shall cause the backflow prevention assembly to be retested to ensure correct operation. Water service may be discontinued if an RPZA fails a test and cannot be repaired immediately. Copies of all repair, maintenance, test, and retesting reports shall be submitted to *a certified backflow assembly tester*

(c) Backflow prevention assemblies will be tested more frequently than specified in subsection (a) of this section when they have a history of test failures and when the backflow compliance officer determines that additional testing is warranted because of the degree of hazard. (Code 1978, § 10.14(VIII))

Sec. 110-234. Assembly installation permits.

All approved backflow prevention assemblies must be installed by a state licensed plumber. Owners shall obtain a construction permit from the building inspector, if required; and the licensed plumber shall obtain an assembly installation permit from the backflow compliance officer prior to beginning installation. The backflow compliance officer shall inspect and approve the installation prior to connection to the city's water system. (Code 1978, § 10.14(IX))

Sec. 110-235. Reporting requirements.

The owner shall be responsible for properly filing reports with the backflow compliance officer for each required backflow prevention assembly. DDCVAs and

DRPZAs are composed of two unique assemblies: each requires the submission of a report. In addition to administrative reports, any failure, removal, modification or replacement of an RPZA or suspected backflow shall be reported immediately by telephone to the backflow compliance officer. Repair, maintenance, replacement and performance test reports shall be filed with the backflow compliance officer within two calendar days.

(Code 1978, § 10.14(XII))

See. 110-236. Records.

The owner shall maintain records for each assembly, and the minimum record requirements are:

- (1) Installation drawings;
- (2) Manufacturer's identity;
- (3) Model and serial numbers;
- (4) Installation date;
- (5) Current permit;
- (6) Maintenance schedule; and
- (7) Technical data.

(Code 1978, § 10.14(XIII))

See. 110-237. Temporary use backflow prevention assemblies.

(a) When using a public fire hydrant as a temporary water source, it shall be protected by an RPZA. The owner shall use an RPZA and a flow meter, which shall be obtained from the approving authority. The authority shall charge a deposit for the RPZA and the meter, and the owner shall pay for water usage. The authority shall install the RPZA and the meter. The owner will notify the backflow compliance officer to disconnect the RPZA, and the RPZA and the meter will be returned to the authority immediately upon disconnection. If the RPZA and/or the meter are lost or stolen, the deposit shall be deducted from the replacement cost; and the owner shall pay the difference between the deposit and the replacement costs. City-owned RPZAs and meters shall be used only at the site for which they were intended.

(b) The connection of all newly installed water distribution systems to an existing city water main shall be through an approved backflow prevention assembly. The backflow prevention assembly shall be placed where it will have the least impact on traffic. The removal of the meter and assembly shall be allowed only after construction has been accepted by the backflow compliance officer. Any necessary taps may be made; however, only one tap shall be physically connected to the newly constructed water distribution system. All other new distribution water lines shall be terminated with a plug pending acceptance by the backflow compliance officer; they may be connected to the city mains only after receiving such approval.

(Code 1978, § 10.14(XI))

Secs. 110-238--110-260. Reserved.

DIVISION 2. FEES AND CHARGES

Sec. 110-261. Annual permit renewal fee.

(a) Owners of commercial, public or industrial buildings and/or facilities which require an approved, properly functioning backflow preventer, in accordance with this article, shall pay to the city an annual permit renewal fee of \$25.00 for each approved backflow prevention assembly connected to water lines within the building and/or facility.

(b) The annual permit renewal fee shall be paid on or before the expiration date of the permit.

(Code 1978, § 10.14(X))

Secs. 110-262--110-330. Reserved.

ARTICLE V. SEWER UTILITY*

*State law reference(s)--Sewers generally, A.C.A. § 14-229-101 et seq.

DIVISION 1. GENERALLY

Sec. 110-331. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter.

Building means residential and commercial structures which enclose a source of wastewater.

Building drain means 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 feet (1.5 meters) outside the inner face of the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal; also called house connection.

Easement means an acquired legal right for the specific use of land owned by others.

Floatable oil means 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.

Garbage means the animal and vegetable waste resulting from the handling, preparation, cooking and serving of food.

Industrial wastes means the wastewater from industrial processes, trade or business as distinct from domestic or sanitary waste.

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

pH means 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} .

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

Public sewer means a common sewer controlled by a governmental agency or public utility.

Sanitary sewer means a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of groundwaters, stormwaters and surface waters that are not admitted intentionally.

Sewage means the spent water of a community. The preferred term is "wastewater."

Sewer means a pipe or conduit that carries wastewater.

Slug means any discharge of water or wastewater which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than 15

minutes more than five times the average 24-hour concentration or flows during normal operation.

Storm drain (sometimes termed "storm sewer") means a drain or sewer for conveying water, groundwater, subsurface water or unpolluted water from any source.

Superintendent means the superintendent of wastewater facilities of the city or his authorized deputy, agent or representative.

Suspended solids means 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" and referred to as non-filterable residue.

Unpolluted water means 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.

Wastewater means 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.

Wastewater facilities means the structures, equipment and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

Wastewater treatment works means 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."

Watercourse means a natural or artificial channel for the passage of water, either continuously or intermittently.

(Code 1978, § 10.10; Ord. No. 1262, art. I, § 27, 8-26-1986)

Cross reference(s)--Definitions generally, § 1-2.

Sec. 110-332. Penalties.

(a) Any person found to be violating any provision of this article except section 110-333, shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for its satisfactory correction. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(b) Any person who shall continue any violation beyond the time limit provided for in subsection (a) of this section and/or any person who shall be found to be violating the provisions of section 110-333 shall be deemed guilty of a misdemeanor and upon conviction shall be fined in an amount of not more than \$500.00 for each violation, or

double that sum for each repetition of such offense or violation, and if the act is continuous in nature, in any sum not more than \$250.00 for each day the action shall be unlawfully continued.

(c) Any person violating any of the provisions of this article shall become liable to the city for any expense, loss or damage occasioned the city by the reason of such violation.

(d) In cases of repeated violations, the city may revoke the permit for discharge of wastes into the sewer system and effect the discontinuation of water or sewer service, or both.

(Code 1978, § 10.10; Ord. No. 1262, art. VII, §§ 1--4, 8-26-1986)

Sec. 110-333. Prohibited actions.

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

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

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

(Code 1978, § 10.10, art. VI, §§ 1--3)

Sec. 110-334. Disposal of excrement.

It shall be unlawful for any person to place, deposit or permit to be deposited on public or private property within the city in any area under the jurisdiction of the city any human or animal excrement, garbage or objectionable waste.

(Code 1978, § 10.10, art. II, § 1)

Sec. 110-335. Disposal of wastewater limited.

It shall be unlawful to discharge to any natural outlet within the city or in any area under the jurisdiction of the city any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this article. The issuance of a valid National Pollutant Discharge Elimination System permit covering such discharges into a natural outlet shall be considered as meeting all requirements of this section.

(Code 1978, § 10.10, art. II, § 2)

Sec. 110-336. Private systems limited.

Except as otherwise provided in this article, 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 wastewater.

(Code 1978, § 10.10, art. II, § 3)

Sec. 110-337. Use of public system required.

The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the city and abutting on any street, alley or right-of-way in which there is located a public sanitary sewer of the city is required at their expense to install suitable toilet facilities and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within 90 days after date of official notice to do so, provided the public sewer is within 500 feet of the property.

- (1) a. If the owner of the property shall fail, neglect or refuse to connect the sewer as ordered in this section within the time prescribed in the official notice, unless further time is granted by the superintendent, it shall be the duty of the superintendent to cause the sewer to be constructed, by contract or otherwise, in as economical and substantial a manner as may be practicable.
- b. For that purpose, the superintendent is authorized to enter upon, by his agents, contractors and employees, any property on which he may order a sewer to be constructed, doing as little damage as possible.
- (2) a. When the construction shall have been completed and the cost ascertained, it shall become a charge and lien upon the property.
- b. I. The superintendent is authorized and empowered to institute suit in the name of the city in any court having jurisdiction to enforce liens against real property, in the manner designated by A.C.A. § 14-90-1002 for the commencement of suits by the board of improvement, for the purpose of making the property chargeable for the lien provided in this section and the amount of the construction of the sewer, together with 20 percent penalty for noncompliance with the order to the superintendent.
2. i. When a decree shall have been obtained, the property shall be ordered sold in the manner provided in A.C.A. §§ 14-90-1101--14-90-1108 and 14-90-1201--14-90-1204 for the sale of the property.
- ii. All appeals from decrees to the state supreme court rendered against property under this section shall be prosecuted within the time and under the restrictions and limitations set forth in this article and any

applicable statute, and no injunction shall be issued by any court restraining the building of any sewer ordered by the superintendent.

- (3) a. All notices and summons required in this section shall be served in the manner provided in A.C.A. § 14-90-1003, against resident as well as nonresident owners of property; and
- b. 1. The court shall be open, as stated in A.C.A. § 14-90-1001;
2. The same preference shall be given to suits commenced under this section; and
3. The same summary mode of proceeding shall be adopted in pleading and in all matters relating to the enforcement of the lien (A.C.A. § 14-235-303).
(Code 1978, § 10.10, art. II, § 4)

Sec. 110-338. Extension of sewer mains.

Sewer mains may be extended within the corporate limits to serve currently unsewered areas. Sewer mains may be extended outside the corporate limits only to facilitate terrain requirements for sewer line construction.
(Code 1978, § 10.10, art. II, §§ 4--5)

Sec. 110-339. Payment of costs, expenses.

All costs and expenses incidental to the installation and connection of a building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
(Code 1978, § 10.10, art. IV, § 3)

Sec. 110-340. Separate building sewer required.

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the front building sewer may be extended to the rear building and the whole considered as one building sewer. The city does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection.
(Code 1978, § 10.10, art. IV, § 4)

Sec. 110-341. Use of old building sewers.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this article.
(Code 1978, § 10.10, art. IV, § 5)

Sec. 110-342. Conformance with codes required.

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 city and the state. In the absence of code provisions or in their amplification, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.
(Code 1978, § 10.10, art. IV, § 6)

Sec. 110-343. Building sewer elevation.

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.
(Code 1978, § 10.10, art. IV, § 7)

Sec. 110-344. Prohibited connections.

No person shall make connections 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 to a public sanitary sewer.
(Code 1978, § 10.10, art. IV, § 8)

Sec. 110-345. Compliance of building sewer connections with codes, regulations.

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All such connections shall be made gastight and watertight and verified by proper testing.
(Code 1978, § 10.10, art. IV, § 9)

Sec. 110-346. Supervision of building sewer inspection, connection.

The applicant for a building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the superintendent or his representative.
(Code 1978, § 10.10, art. IV, § 10)

Sec. 110-347. Building sewer excavations.

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

and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(Code 1978, § 10.10, art. IV, § 11)

Sec. 110-348. Responsibility of industrial users.

(a) Any person responsible for discharges through a building sewer carrying industrial wastes shall, at his own expense:

- (1) Install an accessible and safely located control manhole;
- (2) Install meters and other appurtenances to facilitate observation, sampling and measurement of the waste; and
- (3) Maintain the equipment and facilities.

(b) Such control manhole, meters and other monitoring appurtenances shall be lockable and accessible only by the city.

(Code 1978, § 10.10, art. IV, § 12)

Sec. 110-349. City's responsibilities.

The city shall assume responsibility for the maintenance and repair of sanitary sewer lines downstream from the point where two or more lines connect except when:

- (1) Sanitary sewer lines connecting multiple buildings on the same property (e.g., cabins, motel units, etc.) connect with a common line before connecting with a sanitary sewer line owned by another property owner.
- (2) Adjacent properties are owned by the same property owner.
- (3) Two sanitary sewer lines connect with a common line that is less than six inches in diameter.

(Code 1978, § 10.10, art. IV, § 13)

Secs. 110-350--110-370. Reserved.

DIVISION 2. PERMITS

Sec. 110-371. Required.

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

(Code 1978, § 10.10, art. IV, § 1)

Sec. 110-372. Classes.

There shall be two classes of building sewer permits: for residential and commercial services and for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent.

(Code 1978, § 10.10, art. IV, § 2)

Secs. 110-373--110-390. Reserved.

DIVISION 3. PROHIBITED DISCHARGES

Sec. 110-391. Unpolluted waters.

No person shall discharge or cause to be discharged any unpolluted waters such as stormwater, groundwater, roof runoff, subsurface drainage or cooling water to any sewer.

(Code 1978, § 10.10, art. V, § 1)

Sec. 110-392. Discharge of stormwater.

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet.

(Code 1978, § 10.10, art. V, § 2)

Sec. 110-393. Specific prohibited discharges.

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

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

- (2) Any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any 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 treatment plant.
- (3) Any waters or wastes having a pH lower than 6.0 or in excess of 9.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater works.
- (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities, such as but not limited to ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, egg shells, etc., either whole or ground by garbage grinders.
(Code 1978, § 10.10, art. V, § 3)

Sec. 110-394. Limitations on discharges.

The following described substances, materials, waters or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers or wastewater treatment process or equipment; will not have an adverse effect on the receiving stream; or will not otherwise endanger lives, limb or public property or constitute a nuisance. The superintendent may set limitations more stringent than the limitations established in this section if, in his opinion, such more severe limitations are necessary to meet the 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 superintendent are as follows:

Fluoride other than that contained in the public water supply.

Chlorides in concentrations greater than 250 mg/l.

Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius).

- (4) Any water or waste containing fats, wax, grease or oils in excess of 100, mg/l or containing substances which may solidify or become viscous at temperatures between 32 and 150 degrees Fahrenheit (0 and 65 degrees Celsius).

- (5) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the city to determine the intended use and adequacy of the proposed installation for such intended use.
- (6) Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions, whether neutralized or not, which are capable of causing any damage or corrosion in the sewers or the sewage treatment plant or interfering with the sewage treatment process.
- (7) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances or wastes exerting an excessive chlorine requirement, to such a degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the city for such materials.
- (8) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the city as necessary, after treatment of the composite sewage, to meet the requirements of state, federal or other public agencies of jurisdiction for such discharge to the receiving waters.
- (9) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the city in compliance with applicable state or federal regulations.
- (10) Materials which exert or cause:
 - a. Unusual concentrations of inert suspended solids (such as, but not limited to, fuller's earth, lime slurries and lime residues) or of dissolved solids (such as but not limited to sodium chloride and sodium sulfate).
 - b. Excessive discoloration (such as but not limited to dye wastes and vegetable tanning solutions).
 - c. Unusual BOD, unusual chemical oxygen demand, unusual suspended solids, or excessive chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works except by agreement between the owner and the city specified in the permit for operation issued to the owner by the city in accordance with section 110-372.
 - d. Unusual volume of flow or concentration of wastes constituting slugs.
- (11) Obnoxious, toxic or poisonous solids, liquids or gases.

- (12) Any waters or wastes containing toxic materials or heavy metals in concentrations exceeding the following limits:

Pollutant	Maximum Any One Day (mg/l)	Average for 30 Consecutive Days (mg/l)
Cyanide	0.8	0.23
Cadmium	1.2	0.5
Chromium (total)	7.0	2.5
Copper	4.5	1.8
Lead	0.6	0.3
Nickel	4.1	1.8
Zinc	4.2	1.8
Total Metals	10.5	5.0

If industry compliance with these limits fails to reduce the concentrations of toxic materials or heavy metals in the influent to the sewage treatment plant to within guideline concentrations published by the state department of pollution control and ecology listed below, the above-stated limits may be reduced by the city or loading in pounds per day of the above-listed pollutants may be allocated by the city to the industries contributing toxic materials or heavy metals in the influent to the sewage treatment plant to within the following state department of pollution control and ecology guidelines:

Element	Concentration (mg/l)
Arsenic	0.05
Barium	5.00
Boron	1.00
Cadmium	0.02
Chromium	0.05
Copper	0.02
Lead	0.10
Manganese	0.50
Mercury	0.002
Nickel	0.08
Selenium	0.02
Silver	0.01
Zinc	0.05
Cyanide	0.0

- (13) Any waters or wastes containing any measurable trace of the following:

Antimony
Beryllium
Bismuth
Cobalt
Molybdenum
Pesticides
Uranyl Ion
Rhenium
Strontium
Tellurium
Herbicides
Fungicides

- (14) Chlorinated solvents.
- (15) Wastes containing sulfides over 5.0 mg/l.
- (16) Septic tank sludge.
- (17) Any dissolved solids in excess of 600 mg/l.
- (18) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed or are amenable to treatment only to such degree that the sewage treatment effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
(Code 1978, § 10.10, art. V, § 4)

Sec. 110-395. Storage of dangerous materials.

The storage of any material in areas served by public sewers or in areas draining into the city sewer which, because of discharge or leakage from such storage, may create an explosion hazard in sewage works or treatment processes, or constitute a hazard to human beings or animals or the receiving stream shall be subject to review by the superintendent, who at his discretion, may require reasonable safeguards to prevent discharge or leakage of such materials into the sewers.

(Code 1978, § 10.10, art. V, § 6)

Sec. 110-396. Action by city.

If any waters or wastes are discharged, or are proposed to be discharged, to the public sewers, which waters contain the substances or possess the characteristics enumerated in section 110-394, and which in the judgment of the superintendent may have a deleterious effect upon the sewage works, processes, equipment or receiving water, or which otherwise may create a hazard to life or constitute a public nuisance, the city may:

- (1) Reject the wastes;

- (2) Require pretreatment to an acceptable condition for discharge to the public sewers in accordance with an approved implementation schedule;
- (3) Require control over the quantities and rates of discharge; if the city permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to requirements of all applicable codes, ordinances and laws, and U.S. Environmental Protection Agency guidelines for pretreatment; and/or
- (4) Require that a wastewater effluent retention basin be provided of adequate volume to ensure that slugs of concentrated pollutants are not discharged into the public sewer. If the city requires the retention of wastewater effluent, the design and installation of the retention basin shall be subject to the review and approval of the city.

(Code 1978, § 10.10, art. V, § 7)

Sec. 110-397. Deleted (See revised Grease Trap ordinance)

Sec. 110-398. Maintenance of facilities by owner.

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

(Code 1978, § 10.10, art. V, § 9)

Sec. 110-399. Testing of wastewater.

When directed to do so by the city, the owner of any property discharging industrial wastes shall, at his own expense, have a qualified testing laboratory collect a representative sample of his wastewater and have the appropriate physical, chemical and biological tests performed on this sample, also by a qualified testing laboratory. Qualified testing laboratories selected by the owner to provide these sampling and testing services shall be acceptable to the city. The purpose of such tests shall be to determine the conformance of the wastewater characteristics to this article. A report shall be made in writing to the city by the laboratory stating the results of the tests. Required sampling and testing shall be performed in accordance with the provisions of section 110-400.

(Code 1978, § 10.10, art. V, § 10)

Sec. 110-400. Conformance with Standard Methods.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole. Sampling shall be carried out by customarily accepted methods to reflect the

effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a grab sample or composite samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24-hour composites of all outfalls whereas pHs are determined from periodic grab samples.)

(Code 1978, § 10.10, art. V, § 11)

Sec. 110-401. Inspection fee.

(a) The owners of the buildings which contain interceptors required by section 110-397, or facilities required by section 110-398 shall pay an annual inspection fee to the city of \$100.00 for each such interceptor or facility.

(b) The inspection fee shall be paid on or before January 31 of each year.

(Code 1978, § 10.10, art. V, § 12)

Sees. 110-402--110-420. Reserved.

DIVISION 4. FEES AND CHARGES

Sec. 110-421. Surcharge.

No person shall discharge or cause to be discharged materials which exert or cause BOD in excess of 200 mg/l, or suspended solids in excess of 200 mg/l, without paying an abnormal sewage surcharge, such surcharge system to be in accordance with Ordinance No. 1209.

(Code 1978, § 10.10, art. V, § 5)

Sec. 110-422. Wastewater tap fee.

(a) All persons constructing a new building and/or facility or substantially increasing the size of an existing building and/or facility and requiring use or increased use of the municipal sewer system shall pay a tap fee prior to the city-approved connection of their sewer lines to the municipal sewer system. The amount of this one-time tap fee shall be \$300.00.

(b) All money collected as wastewater tap fees, in accordance with this article, shall be deposited into the water and sewer fund account and shall be used for operations and maintenance of the municipal water and sewer systems.

(Code 1978, § 10.08.01)

Sec. 110-423. Wastewater treatment plant capacity fee.

(a) All persons applying for a building and/or plumbing permit to erect, build or construct a new building and/or facility, or increase the size and/or use of an existing building and/or facility, requiring the use or increased use of the municipal sewer system shall buy capacity in the wastewater treatment plant at a cost of \$3.00 per gallon of estimated daily sewage flow.

(b) Any persons who own unsewered improved real estate and who have been subject to city real property tax on such unsewered improved real estate for 1993 or earlier, and who apply for connection of such owned real estate to the municipal sewer system, shall pay such property tax in full before connection and shall not be subject to the capacity fee.

(c) Public institutions, including schools and hospitals, that provide services for public health, safety and general welfare, that relocate within the city limits shall be charged the capacity fee only for the increased use, if any, of the new or newly acquired buildings and/or facilities. Persons acquiring title to buildings and/or facilities of public institutions relocating in accordance with this section shall be subject to the capacity fee for those buildings as specified by this article.

(d) Under no circumstance, after connection to the municipal sewer system, shall a decrease in usage result in a refund of any previous fees paid as set forth in this article.

(e) The building inspector shall determine the amount of this one-time capacity fee by multiplying the rate per gallon of estimated daily sewage, \$3.00, times the estimated gallons per day presented below for each type of establishment or combinations of types of establishments, e.g. a motel with a restaurant, bar, residence, laundry, etc.

<i>Type of Establishment</i>	<i>Gallons per Day</i>	<i>Estimated</i>
Bars and taverns, no restaurant (per person based on capacity)		2
Businesses, including gift shops, offices, etc. (per employee, including owner on premises)		15
Camps (per person based on capacity):		
With central comfort stations		35
With flush toilets, no showers		25
Construction camps, semi-permanent		50
Day camps, no meals served		15
Resort camps, night and day		50
Car washes (per bay)		1,000

Convenience stores:	
Per employee, including owner on premises	15
With gasoline pumps (per estimated 65 vehicles daily)	650
Churches (per person seating capacity)	5
Dwellings:	
Single-family residences	200
(additions to residences) Evaluated by purpose	
Apartments, condominiums, townhouses, etc. (per dwelling unit)	175
Roominghouses (per bedroom, without, bath, etc.)	100
Roominghouses (per dwelling unit, with bath, etc.)	175
Mobile home parks (per unit space)	250
Factories, exclusive of industrial waste (per person, per shift)	20
Industrial waste	Determined on an individual basis
Hospital (per licensed bed space)	140
Liquid waste dumps	Determined on an individual basis
Laundries, including self-service, laundromats, etc. (per machine)	200
Nursing homes (per licensed bed space)	125
Picnic parks (per person based on capacity):	
With toilets, bathhouse, showers	15
With toilets only	5
Public institutions other than hospitals and schools (per person)	125
Restaurants (per person seating capacity)	10
Recreational vehicle park (see Tourist lodging)	
Schools (per employee, including owner on premises)	15
Additional fees, schools:	
Boarding (per student)	100
Day, without gym, cafeteria, showers (per student)	15
Day, with gym, cafeteria, showers (per student)	30
Day, with cafeteria only (per student)	20

Service stations (per estimated 65 vehicles daily)	650
Per employee, including owner on premises	15
Theaters:	
Movie (per person seating capacity)	5
Live music (per person seating capacity)	5
Drive-in (per space)	5
Tourist lodgings:	
Bed and breakfast houses:	
Residence	175
Each guest unit	150
Cabins, cottages, etc. (per unit)	
Residence	150
Residence	175
Hotels (per room)	
Residence	150
Residence	175
Motels (per room)	
Residence	150
Residence	175
Recreational vehicle park:	
Residence	175
Per space	150

(f) The capacity fee for the following establishments and/or facilities shall be standard fee as follows:

<i>Type of Establishment</i>	<i>Capacity Fee</i>
Bathhouses (per tub)	\$2,000.00
Swimming pool (if connected to sewer)	1,000.00
Hot tub (if connected to sewer)	1,000.00

(g) The building inspector shall collect the capacity fees for the city as set forth in this article.

(h) The estimated capacity fee shall be paid to the building inspector when applying for a building and/or plumbing permit, or when applying to connect to the municipal sewer system for the first time; and the balance shall be paid or refunded when the construction

is completed and inspected by the building inspector. In no case shall an establishment and/or facility be connected to a city sewer line until the inspection is completed and the capacity fee is paid in full.

(i) If a person applies for a building and/or plumbing permit for an establishment and/or facility which is not covered specifically by the estimated gallons per day contained in this article, the building inspector shall estimate the daily sewage flow and notify the city council.

(j) Any person aggrieved by a determination of the building inspector shall have the right to appeal the decision to the city council.

(k) Any person aggrieved by a determination of the city council may, within 30 days of receiving the decision, appeal to the chancery court of the county. The court shall hear pertinent evidence and shall annul the determination of the city council if it finds the evidence to be insufficient in law, and it may make such other decree as justice and equity may require. The remedy provided by this section shall be exclusive, but the person shall have all rights of appeal as in any other equity cases.

(l) All money collected as wastewater treatment plant capacity fees, in accordance with this article, shall be deposited in an account titled "Wastewater Treatment Plant Construction" and shall be used only for the specific purpose of treatment plant construction and/or expansion. The balance of the account shall be invested in accordance with state law to earn the maximum allowable interest.

(Code 1978, § 10.08.02)

Sec. 110-424. Wastewater rates.

(a) The monthly rates and charges for wastewater usage are established as follows:

- (1) First 2,000 gallons of water consumption per month or any portion thereof, minimum \$6.70
- (2) Next 8,000 gallons of water consumption per month, or any portion thereof, \$3.95
- (3) All water consumption in excess of 10,000 gallons per month, or any portion thereof, per 1,000 gallons \$4.80

(b) Not less than 90 percent of the increase reflected in the above rates, over and above the rates reflected by Ordinance No. 1612, adopted August 9, 1994, shall be deposited in a separate account dedicated to wastewater construction as defined in the wastewater facility plan, dated June 16, 1996, and amended by the city council, until such time as such plan has been fully funded.

(c) A standby charge equal to the minimum billing will be charged although the water is cut off at the meter. This charge does not apply to a permanently vacated location. Statements for wastewater services shall not be rendered more often than monthly, and may be rendered in conjunction with the statements for water services; and if not paid within ten days from the billing date, a penalty of ten percent of the amount of the statement shall be added. If the statement is not paid within 20 days of the billing date, water service to the user will be subject to discontinuance pursuant to policy. Service may be restored only after such time as all delinquent charges and penalties for water and wastewater services have been paid.

(Code 1978, § 10.08.03; Ord. No. 1808, § 1(A), (B), 4-15-1999)

Sec. 110-425. Illegal connections.

The city shall terminate illegal connections immediately upon gaining knowledge of such connection. Any connections to the municipal system that are not in compliance with this article shall be considered illegal connections and a violation of this article. Any person or entity convicted for a violation of this article shall be subject to section 1-4.

(Ord. No. 1808, § 1(C), 4-15-1999)

Secs. 110-426--110-450. Reserved.

ARTICLE VI. SEPTIC TANKS AND PRIVATE DISPOSAL SYSTEMS

Sec. 110-451. Building inspector shall be inspector.

The building inspector shall be the inspector, and shall regulate the erection, building and maintenance of all septic tanks in use in the city; and it shall be the duty of any person intending to build or erect a septic tank within the city limits to first make application to the building inspector. It shall be the duty of the inspector to see that such septic tank shall be in conformity with the recommendations of the state board of health.

(Code 1978, § 5.12.01)

Sec. 110-452. Overflows unlawful.

It shall be unlawful to allow a septic tank to overflow or drain on the surface of the ground or in any street or ditch within the city.

(Code 1978, § 5.12.02)

Sec. 110-453. Connection authorized.

Where a public sanitary sewer is not available under the provisions of section 110-337, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article.

(Code 1978, § 10.10, art. III, § 1)

Sec. 110-454. Permit required.

Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit signed by the superintendent. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications and construction permits approved by the state pollution control commission. The minimum lot area for a single-family residence shall be as stipulated by applicable state law in order for a private disposal permit to be issued. (Code 1978, § 10.10, art. III, § 2)

Sec. 110-455. Inspection by superintendent.

A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent. The superintendent shall be allowed to inspect the work at any stage of construction; and, in any event, the applicant for the permit shall notify the superintendent when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the superintendent. (Code 1978, § 10.10, art. III, § 3)

Sec. 110-456. Compliance with state regulations.

The type, capacities, location and layout of a private wastewater disposal system shall comply with all recommendations of the state department of public health. No septic tank shall be permitted to discharge to any natural outlet. (Code 1978, § 10.10, art. III, § 4)

Sec. 110-457. Maintenance of facilities by owner.

The owner shall operate and maintain private wastewater disposal facilities in a sanitary manner at all times, at no expense to the city. (Code 1978, § 10.10, art. III, § 6)

Sec. 110-458. Connection with public sewer.

At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in section 110-337, a direct connection shall be made to the public sewer within 90 days in compliance with this article. The requirements of this section shall not apply to owners discharging such sewage under the provisions of a valid National Pollution Discharge Elimination System permit. (Code 1978, § 10.10, art. III, § 5)

Sec. 110-459. Building sewers.

Where a public sanitary sewer is not available, the owner's building sewer may be connected to a private fixed wastewater disposal system, on the following basis:

- (1) Before a private wastewater disposal system is constructed, altered or extended, the owner shall make application to the city for a permit. The owner must have a written permit from the state department of health for the installation of the proposed disposal facility.
- (2) The owner must install a septic tank of standard design to facilitate future maintenance by the city and must meet the following minimum requirements:
 - a. Materials. All tanks must be manufactured of polyethylene convertible to septic tank effluent pump sewer system.
 - b. Structural design. Septic tanks shall be designed to maintain structural and watertight integrity when buried from a minimum of one foot to a maximum of six feet from the top of the tank to the surface of the ground. Different classes or weights of tanks will be acceptable for different depths of burial.
 - c. Internal plumbing. The tank manufacturer shall provide watertight joints where the inlet and outlet pipes pass through the tank wall.
 - d. Riser. The riser shall be positively sealed onto the tank. The correctly assembled riser-to-tank connection shall be watertight under high groundwater conditions. Gasket material shall be resistant to deterioration. Fasteners shall be stainless steel.
 - e. Manhole cover. The manhole cover shall be made of high-density, structural foam polyethylene slightly domed with underlying reinforcing ribs and shall withstand light lawn and garden vehicular traffic. The manhole cover shall extend around the outside of the riser a minimum of two inches below grade, and shall be fastened to the riser with stainless steel screws. The manhole cover shall provide a minimum of 20 years of ultraviolet protection.
- (3) The owner must tender an amount of money, in cash, to the city as determined by the city to be placed in an escrow account in the Bank of Eureka Springs by the city for the purpose of paying for future installation by the city of equipment to connect the tank as installed by the owner to the municipal collection system. The sum of money tendered by the owner and any interest earned on the sum would be used by the city to connect the owner's sewer to the municipal collection system.
- (4) The owner must grant to the city a permanent easement over the property to allow the city to inspect and maintain the existing septic facilities and to construct new lines across the property to connect to the municipal collection system, at such time as the municipal collection system is completed and available. The easement must be of proper legal form and content so that it can be recorded.

- (5) The owner must abandon the private field absorption system and connect the building sewer system to the municipal collection system as soon as possible following the construction of the municipal collection system.
- (6) The city will maintain, at the owner's expense, the septic tank system installed pursuant to this section so long as the public sewer system is in operation.
- (7) The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no cost to the city in accordance with ordinances, the state department of health, and the state department of pollution control and ecology.

(Code 1978, § 10.10, art. III, § 10)

Sec. 110-460. Inspection fee for interceptors.

(a) Those owners of buildings and facilities which operate and maintain private wastewater disposal systems in the city and are required by the state department of health and the city to have grease, oil and sand interceptors shall pay an annual inspection fee to the city of \$100.00 for each such interceptor.

(b) The inspection fee shall be paid on or before January 31 of each year.

(Code 1978, § 10.10, art. III, § 11)

Chapter 111 RESERVED

Chapter 112 VEGETATION*

*Editor's note--The repeal of the city's zoning ordinance, Ord. No. 1075, adopted Aug. 17, 1979, by Ord. No. 1816, adopted Nov. 2, 2000, did not extend to the landscaping and tree preservation provisions, which have been included herein at the direction of the city. Cross reference(s)--Zoning, Ch. 114.