

**AN ORDINANCE AMENDING CHAPTER 54, UTILITIES, ARTICLE VI, OF THE CODE OF ORDINANCES OF THE CITY OF ROGERS; PROVIDING FOR THE EMERGENCY CLAUSE; AND FOR OTHER PURPOSES.**

**WHEREAS**, an amendment is needed to certain portions of Chapter 54, Utilities, Article VI of the Code of Ordinances of the City of Rogers, Arkansas concerning the City's program to prevent the introduction of Fats, Oils, and Grease (FOG), Food Waste, Sand, Soil and Lint into City's wastewater treatment system; and

**WHEREAS**, the Rogers Waterworks and Sewer Commission recommends adoption of amendments as shown on the attached Exhibit 1.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROGERS, ARKANSAS:**

Section 1: Article VI of Chapter 54, Utilities, of the Code of Ordinances of the City of Rogers is amended to read as shown on the attached Exhibit 1;


Section 2: Emergency Clause: The need to amend the Rogers City Code as described in Section 1 of this Ordinance is immediate in order to protect the public peace, health, safety, and welfare. An emergency is hereby declared to exist and this Ordinance shall be in full force and effect from the date of passage and approval;

Section 3: Severability Provision: If any part of this Ordinance is held invalid, the remainder of this Ordinance shall continue in effect as if such invalid portion never existed; and

Section 4: Repeal of Conflicting Provisions: All Ordinances, Resolutions, or Orders of the City Council, or parts of the same, in conflict with this Ordinance are repealed to the extent of such conflict. However, in the event any provision of this Ordinance amending or repealing a previous provision of the Code of Ordinances of the City of Rogers is invalidated or fails to obtain any required regulatory approval, that previous portion of the Code that was so amended or repealed shall be automatically reinstated so that the City shall at all times maintain its program to prevent the introduction of Fats, Oils, and Grease (FOG), Food Waste, Sand, Soil and Lint into the City's wastewater treatment system.

PASSED this 20<sup>th</sup> day March 2024.



  
C. GREG HINES, Mayor

ATTEST:

  
JESSICA RUSH, City Clerk

Requested by: Rogers Water Utilities and Rogers Waterworks and Sewer Commission  
Prepared by: Robert A. Frazier, Legal Counsel, Rogers Water Utilities and Rogers Waterworks and Sewer Commission

## **ARTICLE VI. – FATS, OILS, AND GREASE (FOG), FOOD WASTE, PETROLEUM OILS, LINT AND OTHER SUBSTANCES**

### **DIVISION 1. – GENERAL PROVISIONS**

#### **Sec. 54-831. Purpose.**

This Article set(s) forth requirements and prohibitions limiting discharge of Fats, Oils, and Grease (FOG), food waste, petroleum oil, lint or any other materials and/or substances that interferes with the operation of the City's publicly owned treatment works (POTW).

The objectives of this Article are:

1. To prevent the introduction of pollutants into the POTW that will interfere with its operation of treatment or cause damage to or obstructions of the sewage collection system, pumps and controls;
2. To prevent the introduction of pollutants that will pass through the POTW, inadequately treated, into receiving waters, or otherwise be incompatible with the POTW;
3. To protect both the POTW and the general public;
4. To establish quantity and quality standards on all wastewater and/or waste discharges containing pollutants that may cause or contribute to the occurrence of sanitary sewer overflows (SSOs);
5. To prevent unreasonable maintenance, attention and expense to the POTW; and
6. To help maintain the City's compliance with its National Pollutant Discharge Elimination System (NPDES) permit conditions and any other Federal or State laws to which the POTW is subject.

#### **Sec. 54-832. Administration.**

Except as otherwise provided herein, the Superintendent of the Rogers Water Utilities or the Superintendent's duly authorized representative(s) shall administer, implement and enforce the provisions of this Article.

#### **Sec. 54-833. 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:

*Best Management Practices or BMPs* means schedules of activities, prohibitions of practices, general good housekeeping practices, design standards, operational practices, maintenance procedures, educational activities and other management practices to implement the prohibitions listed in Chapter 54, Article V, Division 2, of the Code of Ordinances of the City of Rogers, Arkansas and in 40 CFR § 403.5(a)(1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

*City* means the City of Rogers, Arkansas.

*Control Authority* means the jurisdictional entity that oversees the operation and protection of the City's POTW. The Control Authority is the Rogers Water Utilities. The Control Authority shall act through the Superintendent of the Rogers Water Utilities or the Superintendent's duly authorized representatives.

Fats, Oils, and Grease (FOG) means any material, either liquid or solid, composed primarily of fats, oil, and grease from animal or vegetable sources.

*Food service establishment* (FSE) or food service facility means any facility that processes, prepares and/or packages food for sale or consumption, on or off-site, with the exception of private residences. FSE's shall include, but are not limited to: food manufacturers, food packagers, restaurants, cafes, day cares, delis, grocery stores, bakeries, cafeterias, hospitals, hotels, motels, nursing homes (independent and assisted living), churches, schools, caterers, coffee shops, mobile food vehicles or any other sewer users who discharge applicable waste as determined by the Control Authority.

*Mobile Food Vehicle* means a food establishment preparing and/or serving foods from a self-contained vehicle either motorized or within a trailer that is readily movable without disassembling for transport to another location. Mobile food vehicles may serve as a conveyance for outdoor vending at a fixed location.

*Oil Separator* means an approved and industry standard system that is specifically designed and manufactured to separate petroleum oil from water and settle solids.

*Outdoor Vendor* means a person that exhibits, displays, sells or offers for sale any food, beverages, goods, wares or merchandise from a conveyance at a fixed location. This definition does not include a door-to-door solicitor, mobile food vending, children's lemonade stands or homeowners having garage sales.

*Pretreatment Devices* means any approved device, structure, system, or method used and maintained for the purpose of bringing a waste stream within acceptable limits and standards of quality prior to its discharge to the public sewer system. Examples of pretreatment devices include, but are not limited to: grease interceptors, oil separators, solids interceptors, lint interceptors, pH adjustment, etc.

*Publicly-Owned Treatment Works (POTW)* means any sewage treatment works, as defined by 33 USC § 1292, which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of residential, commercial, or industrial wastewater and any conveyances, which convey the wastewater to a treatment plant.

*User* means the responsible person, entity, or establishment that is required, under this Article, to install and maintain pretreatment devices, including, without limitation, persons, entities, or establishments located outside the corporate limits of the City who contribute, cause or permit the contribution or discharge of wastewater into the POTW. Users may be classified as:

- (1) The owner or proprietor of an individually owned pretreatment device;
- (2) The franchise owner when an establishment is part of a franchise;
- (3) A general partner when an establishment is part of a general or limited partnership;
- (4) The corporate or organizational representative when an establishment is owned or controlled by a corporation, limited liability company, or other entity; and
- (5) The owner or person who assumes control of the pretreatment device or the property on which the pretreatment device is located when two or more Users share a common pretreatment device.

**Secs. 54-834—54-863 Reserved.**

## **DIVISION 2. – CONTROL OF FATS, OILS AND GREASE**

### **Sec. 54-864. Adoption of FOG Management Policy.**

All food service establishments (FSE's), commercial business, or any other facility that discharges or has the potential to discharge FOG or applicable waste into the sanitary drainage systems and POTW are required to install, operate, and maintain an approved type and adequately-sized grease interceptor. All required grease interceptors within the City must comply with *Rogers Water Utilities Fats, Oils, and Grease (FOG) Management Policy* ("*FOG Management Policy*").

The most current version of the *FOG Management Policy* as published on the website of the Rogers Water Utilities (RWU.ORG) is adopted as the applicable policy for the City and the whole of the policy is incorporated herein by reference in its entirety herein as if set out word for word.

The Rogers Waterworks and Sewer Commission may alter, change, or amend the *FOG Management Policy* without further action of the City Council.

**Secs. 54-865—54-892 Reserved.**

## **DIVISION 3. – CONTROL OF PETROLEUM OIL**

### **Sec. 54-893. Adoption of Oil Separator Management Policy.**

All vehicle washes, garages, service stations, vehicle maintenance facilities, fabricators, utility equipment shops and any other facility that discharges or has the potential to discharge petroleum oil, petroleum-based products, or other applicable waste into the sanitary drainage system or POTW are required to install, operate, and maintain an approved type and adequately-sized oil separator. All required oil separators within the City must comply with the *Rogers Water Utilities Oil Separator Management Policy* ("*Oil Separator Management Policy*").

The most current version of the *Oil Separator Management Policy* as published on the website of the Rogers Water Utilities (RWU.ORG) is adopted as the applicable policy for the City and the whole of the policy is incorporated herein by reference in its entirety herein as if set out word for word.

The Rogers Waterworks and Sewer Commission may alter, change, or amend the *Oil Separator Management Policy* without further action of the City Council.

**Secs. 54-894—54-929 Reserved.**

## **DIVISION 4. – LAUNDRIES**

### **Sec. 54-930. Commercial Laundries.**

Commercial Laundries, such as, dry cleaners, public laundromats, hotels, assisted living facilities etc. shall install and maintain an approved pretreatment device designed to catch lint and other material from clothing or bedding. Larger facilities with higher flows and/or pollutant loads may be categorized as a significant industrial user pursuant to Chapter 54, Article V, Division 1, of the Code of Ordinances of the City of Rogers, Arkansas and subject to pretreatment regulations.

**Secs. 54-931—54-962 Reserved.**

## **DIVISION 5. – FERMENTED BEVERAGE FACILITIES**

### **Sec. 54-963. Fermentation and Distillation Discharges.**

All Businesses that discharge wastewater from fermentation and distillation processes must complete Rogers Water Utilities' fermented beverages survey and may be required to install one or more pretreatment device and/or one or more sampling ports. Facilities may be required to follow Best Management Practices (BMPs) or Standard Operating Procedures (SOPs) to minimize or eliminate pollutants of concern. These businesses include, but are not limited to, breweries, distilleries, wineries, cideries, meaderies, and kombucharies. Facilities with higher flows and/or pollutant loads may be categorized as a significant industrial user pursuant to Chapter 54, Article V, Division 1, of the Code of Ordinances of the City of Rogers, Arkansas and subject to pretreatment regulations.

**Secs. 54-964—54-984 Reserved.**

## **DIVISION 6. – MISCELLANEOUS PROVISIONS**

### **Sec. 54-985. Pretreatment Devices**

(a) Pretreatment devices shall be maintained by the User so as to prevent a stoppage of the wastewater collection system, and the accumulation of FOG, food waste, sand, soil, lint and any other undesirable materials and/or substances in the collection lines, pump stations, and wastewater treatment plant (POTW). All pretreatment devices must be installed per the applicable manufacturers' specifications, guidelines and/or recommendations. The Control Authority retains the right to require, inspect and approve all installations of pretreatment devices. The costs of purchase, installation, and maintenance of pretreatment devices and related equipment shall be borne by the User.

(b) If it becomes necessary for the Control Authority to clean out wastewater collection lines as a result of a stoppage resulting from the absence of an approved pretreatment device, or from a poorly maintained pretreatment device, the User shall be required to refund the labor, equipment, materials, and any overhead costs to the Control Authority along with any fines incurred due to any sanitary sewer overflow due to the stoppage.

(c) The Control Authority reserves the right to require new or additional pretreatment devices if existing pretreatment devices are shown to be insufficient to protect the POTW from interference due to the discharge of FOG, sand, soil, lint or any other undesirable materials and/or substances.

(d) Under certain circumstances, special exceptions to this Article or applicable incorporated policy may be needed concerning the size, location, or other aspects of pretreatment devices. If an exception to this Article is requested, the User must demonstrate that the size and/or location will not cause the facility any problems in meeting the discharge limits set forth in this article or applicable incorporated policies. Exceptions, conditional waivers, or variances may also be available to facilities that do not generate fats, oils and grease, food waste, oil, lint or any other materials and/or substances that do not cause interference, blockages and associated problems to the POTW. A variance can be revoked, and pretreatment devices required if the facility changes or increases operations, is in violation of an effluent limit and/or causes issues within the POTW. If a variance is granted, then the User shall institute Best Management Practices and other mitigation measures, as determined by the Control Authority.

**Secs. 54-986—54-1013 Reserved.**

## **DIVISION 7. – ENFORCEMENT**

### **Sec. 54-1014. Enforcement**

(a) *Right of Entry.* The Control Authority shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this Article and applicable incorporated policies. Users shall allow the Control Authority access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(b) *Enforcement Procedures.* Noncompliance with this Article and applicable incorporated policies is considered a violation and may result in escalating enforcement action by the Control Authority or City. Enforcement procedures are outlined below:

#### (1) Initial Inspection/Action:

- I. The Control Authority will conduct on-site inspection and meet with the User to document and discuss required corrections.
- II. The Control Authority will establish a compliance date (the compliance date will be specific to the User).
- III. The Control Authority will encourage compliance, communication and evidence of completion.

#### (2) Follow up Inspection/Actions:

- i. The Control Authority will conduct site visits as needed to verify compliance and completion of work.
- ii. If required corrections are unresolved, then the Control Authority will issue a Notice of Violation (NOV) letter to the User with another compliance date.
- iii. The Control Authority will request evidence of correction and/or conduct another site visit.

**(3) Final Action:**

- i. If required corrections are still unresolved, the Control Authority will issue a Final Notice of Violation (NOV) letter.
- ii. Upon issuance of the Final NOV letter, the Control Authority will suspend water and sewer services to the location (closure) and the County Health Department and the City's Risk Reduction Division will be notified.
- iii. Services will remain disconnected until all the required corrections have been made. Re-connection fees may apply.

**Secs. 54-1015—54-1099 Reserved**

**Division 8. – PERMITTING**

**Section Sec. 54-1100. Control Authority May Require Permits.**

- a. All Users under this Article that are required to install and/or maintain any form of pretreatment device required by this Article and incorporated policies may be required to apply for and receive a general pretreatment permit with the Control Authority. Permits, if issued, shall be in addition to any other permits, registrations, or occupational licenses required by federal, state, and local agencies having lawful jurisdiction.
- b. All haulers providing abatement activities, such as, but not limited to, the removal and disposal of material from pretreatment devices, for any facility under this Article and within the POTW service area may be required to apply for and obtain a permit with the Control Authority.
- c. The Control Authority will provide the application forms and final permit (if issued). With respect to each application, the Control Authority shall either (a) approve the permit application; (b) deny the permit application; (c) approve the application with special conditions; or (d) take other appropriate action with respect to the permit application consistent with the purpose of this Article.