**SECOND AMENDMENT TO THE RULES AND REGULATIONS OF THE RURAL DEVELOPMENT AUTHORITY CONCERNING COMMUNITY SEWER SYSTEMS**

Article four (4) is hereby amended to read as follows:

4. DATA TO BE FILED WITH THE AUTHORITY

The following information shall be filed with the Authority as required:

A. Before initiation of service or expansion of service to new customers, the RME shall furnish the Authority with the following for their review and approval:

1. Statements by the Arkansas Health Department and the Arkansas Department of Environmental Quality that the design has been approved.

2. Certification by a Licensed Professional Engineer that the entire system was installed according to plans and specifications or for systems built in phases, that the components required for initial service and for each subsequent phase have been installed according to plans and specifications and are adequate for the required service.

3. The RME Rules and Regulations Governing Service.

4. System plans and operating manuals.

5. Emergency Operating Procedures.

6. Rate schedule for services.

7. Customer service list including name, address, and phone number of each customer.

B. The RME shall file with the Authority, any updates or changes to the above documents forthwith and shall file the following annual reports on December 31st of each year. ~~at the same time as any reports are filed with the Department of Environmental Quality:~~

1. Annual audited financial statements (an alternate method of accounting may be allowed if such is shown to be reliable and will give the assurances that the

Authority feels it needs; the burden of proof will be on the RME to offer such alternative and to show that such will provide the Authority equivalent reliability and assurances; in any event upon thirty (30) days written notice the Authority may reinstate the requirement of fully audited annual financial statements.

2. Annual budget reflecting two (2) years past budgetary performance and three (3) years future projections.

3. Performance and monitoring results.

4. An extension to file any of the above may be granted by the Authority.

C. Each application for new system or for any change in a system service area shall include the financial security information required by these rules.

D. No owner or RME shall execute or enter into any agreement or contract with any person, firm, partnership, or corporation which would impact, pertain to, or effect any systems without first submitting to and obtaining approval of the Authority.

E. The Authority may require forms or other uniform methods to be utilized by the RME in preparing all reports and filing required information.

F. Any other matter requested by the Authority.

Herman Jones — 5-17-06

Herman Jones, Chairman of the RDA — Date

Dan Dorman — 5/17/06

Dan Dorman, Secretary of the RDA — Date

Passed this 18th day of April, 2006.

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

FILED
2006 MAY 19 PM 3:00
KAREN COMBS DUNCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

**In the Matter of the Rural Development Authority (RDA) Additional Regulations enacted concerning Community Sewer Systems; Amendments two (2) thru five (5)**

**ORDER**

NOW on this 18th day of May, 2006, comes the above matter and the court finds that the amended regulations stated above and attached hereto should be and are hereby ordered to be filed of record in the Office of the County Clerk.

IT IS SO ORDERED.

JERRY HUNTON, County Judge

2006 89

**THIRD AMENDMENT TO THE RULES AND REGULATIONS OF THE RURAL DEVELOPMENT AUTHORITY CONCERNING COMMUNITY SEWER SYSTEMS**

Article seven (7) of said regulations are hereby amended to read as follows:

(2) FINANCIAL SECURITY

(A) ~~The RME must furnish to the Authority security with sufficient surely prior to providing service to a customer. The RME shall ensure that the security is maintained in continuous force in conformity to this Rule. This security shall act as a performance based and a fidelity bond.~~

1 ~~If the Authority finds that said RME cannot meet this requirement, it may grant temporary operating authority for a reasonable period of time until the management of the system can be transferred or the RME can post the required security.~~

2 ~~The Authority may waive or reduce the requirement for financial security of the RME demonstrates sufficient level of technical, managerial and financial capability and has an acceptable performance record to warrant such reduction.~~

2 ~~A hearing by the Authority will be held to address the amount of the security required from each RME that takes into consideration the annual gross revenues and number of customers.~~

~~1 In setting the amount of a security, the Authority may consider the following to make appropriate findings:~~

(a) ~~The financial condition, including any escrow or reserve accounts, of the system, parent affiliations and holding companies.~~

~~The record of operation of the RME's parent affiliations and holding companies, including compliance with applicable laws and regulations, and any complaints or enforcement actions.~~

~~The number of existing customers and those proposed to be served within the next twelve months.~~

~~Bonding requirements on the RME by any other state or local government.~~

~~The age, condition and type of the equipment being utilized or transferred.~~

~~Any other relevant factors, including the design and the likelihood of future expansion needs of the system.~~

~~3 A security shall be required to be furnished to the Authority for review and approval as follows:~~

(1) ~~For existing systems the security shall be furnished by the RME to the Authority for review and approval as of the effective date of these rules. Securities will then be reviewed along with each transfer in ownership or operation.~~

(2) ~~The RME shall attach a separate notarized statement to its annual report that shall be due on or before February 1 of each year stating that the face amount of the security on file with the Authority complies with the provisions of this Rule, whether the security is still in effect, and the date of the next renewal. The Authority shall review the annual reports and certifications and determine whether the present security of the system is adequate. The Authority shall review the appropriateness of the amount of the security based upon the information submitted in the annual report.~~

(D) ~~Sufficient surety should be provided in one of the following manners:~~

1 ~~The surety may be bonding by the joinder of any duly licensed commercial bonding or insurance company authorized to do business in Arkansas. Where a RME proposes to secure its bond by means of a commercial surety bond of non perpetual duration issued by a corporate surety, the bond and commercial surety bond must specify that:~~

~~If, for any reason, the surety bond is not to be renewed upon its expiration, the financial institution shall, at least sixty (60) days prior to the expiration date of the surety bond, provide written notification by means of certified mail, return receipt requested, to the Authority that the surety bond will not be renewed beyond the then current maturity date for an additional period.~~

~~Failure to renew the surety bond shall, without the necessity of the Authority being required to hold a hearing or appoint an emergency operator, allow the Authority to convert the surety bond to cash and deposit said cash proceeds to be used as a cash bond.~~

~~The cash proceeds from the converted surety bond shall be used to post a cash bond on behalf of the RME.~~

~~Irrevocable letters of credit issued by financial institutions acceptable to the Authority. If the irrevocable letter of credit is non-perpetual in duration, it must specify that:~~

~~If the RME proposes to post evidence of financial responsibility other than that permitted above, a hearing will be held to determine if the form of the proposed security serves the public interest and if the amount proposed by the RME should be higher due to its lack of liquidity. At this hearing, the burden of proof will be on the RME to show that the proposed security and the proposed amount will be in the public interest.~~

~~During a proceeding to determine or adjust rates, the Authority shall determine if a system should maintain a segregated escrow account to be funded by customer contributions collected through base rates. This account shall be established with conditions as specified by the Authority to pay for non-routine operation and maintenance expenses such as major wastewater system component replacements, pumping and treatment of septage, acts of God, emergency capital expenditures, etc. Persons having signature authority over such account shall be subject to a fidelity bond. Such account shall have written requirements for its purpose and use. The system shall bear the burden of demonstrating that actual or proposed expenditures are reasonable and in the public interest.~~

~~If the Authority determines that a segregated escrow account is required the following will apply:~~

~~The amounts to be allocated to the reserve account will be determined by the Authority. At such time as the minimum balance of the funds deposited in the reserve account shall exceed the sum of $10,000, the RME shall establish a trust account managed by the trust department of a bank licensed to conduct business in Arkansas into which all sums in excess of the $10,000.00 shall be deposited. The trust instrument shall set forth the terms and conditions upon which the funds shall be deposited and withdrawn. Funds held in the trust account shall not be subject to any liens, judgments or encumbrances. Interest accrued shall be credited to the reserve account and shall become part of the corpus of the reserve account. Funds from the account shall not be employed for a purpose other than those permitted under this section.~~

FINANCIAL SECURITY

The RME must furnish the Authority with a Fidelity Bond covering any person pr entity that handles money be it cash or in other form; immediately upon construction and occupation of the 1st home in the development.

The RME must furnish to the Authority financial security in the amount of nine (9) months worth of operation expenses. If the RME elects to create or build up the cash equivalent of such; to be held in a special escrow account; then once said amount is reached the financial security may be dispensed with. Said security or cash equivalent shall be reviewed annually to determine it's adequacy.

(a) If, for any reason, ~~the irrevocable of credit~~ an instrument of financial security is not to be renewed upon its expiration, the financial institution shall, at least sixty (60) days prior to the expiration date of the ~~irrevocable letter of credit~~ instrument of financial security, provide written notification by means of certified mail, return receipt requested, to the Authority, that the ~~irrevocable letter of credit~~ instrument of financial security will not be renewed beyond the current maturity date for an additional period; and,

Failure to renew the ~~irrevocable letter of credit~~ instrument of financial security shall, without the necessity of the Authority being required to hold a hearing or appoint a receiver, allow the Authority to convert the ~~irrevocable letter of credit~~ financial security to cash and deposit said cash proceeds to be used as a cash bond.

Said financial security must be furnished upon the completion and occupation of twenty-five percent (25%) of the proposed homes in the development. If a warranty exist on said system then the Authority shall be furnished with a copy of such and the Authority may delay the furnishing of the financial security until said warranty expires. In any event, upon thirty(30) days written notice to the RME Authority may increase the amount of financial security set forth herein and change the time it must be posted.

(a) The RME shall file bank statements and a report that details the expenses on all disbursements from ~~the escrow~~ any bank account annually to the Authority or as the Authority may direct.

(3) Disbursements from ~~the escrow~~ any bank account that are found by the Authority to have been made improperly, or in violation of any statute, regulation or order of the Authority are to be refunded to customers as the Authority may direct. A person, who makes, authorizes or directs a disbursement from ~~a reserve~~ a bank account without authorization by the Authority in accordance with these rules shall be subject to fines and penalties.

~~The trust and escrow accounts~~ Any bank account described above shall be subject to forfeiture in the event that the RME goes into receivership or there is a transfer to another owner RME for any reason without the approval of the Authority in accordance with these regulations.

Herman Jones
Herman Jones, Chairman of the RDA

5-17-06
Date

Dan Dorman
Dan Dorman, Secretary of the RDA

5/17/06
Date

Passed this 19th day of April, 2006.

**FOURTH AMENDMENT TO THE RULES AND REGULATIONS OF THE RURAL DEVELOPMENT AUTHORITY REGARDING COMMUNITY SEWER SYSTEMS**

**WHEREAS,** Ordinance No. 2005-39 provides that cities and other public entities are exempt from the Ordinance and the Rules and Regulations of the RDA; and,

**WHEREAS,** there is a need to clarify and define public entities.

**NOW, THEREFORE, BE IT RESOLVED BY THE RURAL DEVELOPMENT AUTHORITY OF WASHINGTON COUNTY, ARKANSAS:**

**ARTICLE 1.** Said regulations are hereby amended by adding the following:

**ARTICLE 17.** A public entity is hereby defined as follows:

(a) A city or agency, thereof
(b) A county or agency, thereof
(c) A school district or
(d) The state or an agency, thereof

Herman Jones, Chairman of the RDA — 5-17-06 Date

Dan Dorman, Secretary of the RDA — 5-17-06 Date

Passed this 17th day of May, 2006.

**FIFTH AMENDMENT TO THE RULES AND REGULATIONS OF THE RURAL DEVELOPMENT AUTHORITY CONCERNING COMMUNITY SEWER SYSTEMS**

**WHEREAS,** Ordinance No. 2005-39 states that each RME shall indicate the amount of reserves that will be built into any rate or fee with evidence indicating how these reserves are adequate and appropriate to provide long-term sustainable systems performance and compliance with permits; and,

**WHEREAS,** there is a need to further clarify said provision.

**NOW, THEREFORE, BE IT RESOLVED BY THE RURAL DEVELOPMENT AUTHORITY OF WASHINGTON COUNTY, ARKANSAS:**

**ARTICLE 1.** Article 7 of said regulations is hereby amended to add the following:

The term "reserves" is hereby defined as long-term capital reserves that are needed to make any major repair or replacement to the system no sooner than five (5) years from when the system becomes fully operational.

No expenditure may be made from these funds without the permission of the Authority; in the event of an emergency the Chairman or the Administrator may authorize an expenditure from said funds.

Any time an expenditure is made from these funds, the RME shall submit a plan for approval by the Authority to replenish said fund in a reasonable amount of time.

Herman Jones — 5-17-06

Herman Jones, Chairman of the RDA — Date

Dan Dorman — 5-17-06

Dan Dorman, Secretary of the RDA — Date

Passed this 14th day of May, 2006.

**SIXTH AMENDMENT TO THE RULES AND REGULATIONS OF THE RURAL DEVELOPMENT AUTHORITY CONCERNING COMMUNITY SEWERS**

**WHEREAS,** this is a need to further address the issue of reserves; and,

**WHEREAS,** there is a need to address systems that pre-existed ordinance number 2005-39

**NOW, THEREFORE, BE IT RESOLVED BY THE RURAL DEVELOPMENT AUTHORITY OF WASHINGTON COUNTY, ARKANSAS:**

**ARTICLE 1.** Article seven (7) of said regulations is hereby further amended to add the following:

(a) Reserves may be funded by cash, letter of credit, bond or other similar financial instrument.

(b) Systems that were in operation prior to the passage of ordinance number 2005-39 may upon approval of the Chairman or Administrator expend reserve funds; but, must also submit a plan for approval to replenish said funds in a reasonable amount of time. This provision is applicable only to the portion of any such system that was in operation prior to ordinance number 2005-39.

Herman Jones
HERMAN JONES, Chairman

6-21-06
Date

Dan Dorman
DAN DORMAN, Secretary

6-21-06
Date

**IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS**

**IN THE MATTER OF THE SIXTH AMENDMENT TO THE RULES AND REGULATIONS OF THE RURAL DEVELOPMENT AUTHORITY CONCERNING COMMUNITY SWERS**

FILED
2006 JUN 26 AM 11:34
KAREN COMBS MITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

**ORDER**

NOW on this 26th day of June, 2006 comes the above matter and the court finds:

That the sixth (6th) amendment to the Rules and Regulations of the Rural Development Authority concerning Community Sewers should be and is hereby ordered to be filed of record in the Office of the County Clerk.

IT IS SO ORDERED.

JERRY HUNTON, County Judge

2006-102

**SEVENTH AMENDMENT TO THE RULES AND REGULATIONS OF THE RURAL DEVELOPMENT AUTHORITY CONCERNING COMMUNITY SEWERS**

**WHEREAS,** it has come to the attention of the Authority that there is a need to address the ability to locate lines in community sewers.

**NOW, THEREFORE, BE IT RESOLVED BY THE RURAL DEVELOPMENT AUTHORITY OF WASHINGTON COUNTY, ARKANSAS:**

**ARTICLE 1.** The following provision is hereby added to the Rules and Regulations:

(18) (a) Tracer Wire and Location Tape.
All systems shall be constructed utilizing tracer wire for forced mains or lines under pressure and location tape for gravity flow lines.

(b) All Developments served by a system covered by these regulations shall be members of Arkansas One Call (the Arkansas Underground Facilities Damage Prevention Act A.C.A. §14-271-101 et. seq.)

(c) The developer and/or the RME are obligated to ensure that membership to Arkansas One Call is initiated and maintained.

This regulation shall be applicable to all systems that have not submitted their plans to the Arkansas department of health.

Herman Jones
Herman Jones
Chairman

2-21-07
Date

Dan Dorman
Dan Dorman
Secretary

2-21-07
Date

**IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS**

FILED

'05 JUL 29 PM 2 06

KAREN COMBS PRITCHARD
CO. & PROBATE CLERK
WASHINGTON CO. ARK.

**IN THE MATTER OF THE RULES OF THE RURAL DEVELOPMENT AUTHORITY CONCERNING COMMUNITY SEWER SYSTEMS**

**ORDER**

Now on this 28th day of July, 2005 comes the above matter and the court finds that the rules stated above should be and hereby are ordered to be filed in the office of the County Clerk.

IT IS SO ORDERED.

JERRY HUNTON, County Judge

2005-124

FILED

**IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS**

2007 FEB 23 AM 8:32

**IN THE MATTER OF THE SEVENTH AMENDMENT TO THE RULES AND REGULATIONS OF THE RURAL DEVELOPMENT AUTHORITY CONCERNING COMMUNITY SEWERS**

KATHLEEN COMES PRECHASE CO. & PROBATE CLERK WASHINGTON CO. ARK.

**CC: 2007-_____**

**ORDER**

NOW on this 22nd day of February, 2007 comes the above matter and the Court finds:

That the Seventh (7th) Amendment to the Rules and Regulations of the Rural Development Authority concerning Community Sewers should be and is hereby Ordered to be filed of record in the Office of the County Clerk.

**IT IS SO ORDERED.**

Jerry Hunton

Honorable Jerry Hunton
County Judge

2007-36