

ORDINANCE 2002 _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA; RELATING TO WASTEWATER; AMENDING PIMA COUNTY CODE, TITLE 13, CHAPTER 24, SANITARY SEWER USER FEES; AMENDING FEE CALCULATION; RATE SCHEDULE; RATE SCHEDULE TABLE.

BE IT ORDAINED BY THE PIMA COUNTY BOARD OF SUPERVISORS:

SECTION 1. *Amendment.* The Pima County Code, Title 13, Chapter 24, is hereby amended as follows:

Chapter 13.24

SANITARY SEWER USER FEES

Sections:

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13.24.010 Purpose.

This chapter relates to sanitary sewerage and sanitary sewage disposal, regulating sanitary sewage collection and providing sanitary sewer user fees.

13.24.020 Definitions.

The following definitions shall apply throughout this chapter:

1. "Annual wastewater budget" means the amount budgeted in any one fiscal year by Pima County for the operation, maintenance, repair and replacement costs of the wastewater system.
2. "Average user fee" means a user fee based upon the average discharge volume of a user class.
3. "Building connection sewer." See Private Sanitary Sewage Conveyance System.
4. "Ccf" means one hundred cubic feet of flow or approximately seven hundred forty-eight gallons.
5. "Chemical oxygen demand (COD)" means the chemically oxidizable material in wastewater as represented by the reduction of dichromate ion, measured according to the procedures in Standard Methods.
6. "Department" means the Pima County Wastewater Management Department.
7. "Director" means the Director of the Pima County Wastewater Management Department.
8. "Engineering estimate" means an estimate by county engineering staff using the best available data, judgment and experience.
9. "House connection sewer." See "Private Sanitary Sewage Conveyance System."
10. "Inspector" means a person authorized by the Director to inspect wastewater generation, conveyance, processing and disposal facilities.
11. "Private sanitary sewage conveyance system" means a sewer connecting a residence or other building to the public sanitary sewer system. The term includes house connection sewer (HCS) and building connection sewer.
12. "Private water company" means any non-municipal company, firm, corporation, partnership, association, irrigation district or water cooperative, as well as any natural person, that provides water to users.
13. "Private well" means a water well not owned by a municipal corporation, a special taxing district, or a private water company.

14. “Public sanitary sewage conveyance system” means those parts of the public sanitary sewerage system that convey sanitary sewage, whether by gravity sanitary sewer mains or by wastewater pumping systems, from any private sanitary sewage conveyance system to the public wastewater treatment and disposal facilities.

15. “Public sanitary sewerage system” means the system owned by Pima County, including all gravity sanitary sewer mains; wastewater pumping systems; treatment and disposal facilities; and all appurtenances required to collect, transport, treat, store, reclaim, discharge or recharge the liquid and solid phases of wastewater.

16. “Residential user” means one discharging domestic wastewater from a dwelling unit and includes, but is not limited to, persons residing in single-family dwellings, apartments, condominiums, townhouses, and mobile homes, regardless of whether the mobile home is located on a separate residential lot or within a mobile home park.

17. “Sanitary sewage” means the wastes from toilets, baths, sinks, lavatories, laundries, drains, and other plumbing fixtures in residences, institutions, public and business buildings, mobile homes and other places of human habitation, employment or recreation.

18. “Sanitary sewer” means a sewer for conveyance of sanitary sewage or industrial wastewaters, and into which there is no intentional admission of storm, surface, ground or pool backwash waters, or industrial wastes toxic to treatment processes, unless authorized by the Department. The public sanitary sewers of Pima County are operated as separate sanitary sewers, and not as combined sewers intended to receive both wastewater and storm or surface water.

19. “Sewerage facilities” and “sewerage systems” mean both sanitary sewage conveyance and treatment facilities and the associated appurtenant systems.

20. “Standard Methods” means the most recent edition of “Standard Methods for the Examination of Water and Wastewater,” published jointly by the American Public Health Association, the American Water Works Association and the Water Environment Federation.

21. “Strength” means the relative difficulty of treatment of wastewater, expressed in terms of chemical oxygen demand and suspended solids.

22. “Suspended solids (SS)” means solids that float on or are suspended in water, sanitary sewage or industrial wastes, and which are removable by a laboratory filtration device. Quantitative determination of suspended solids shall be made by procedures in Standard Methods.

23. “User” means one who discharges wastewater to the wastewater system.

24. “User class” means a grouping of users having similar discharge strength, conducting a similar business, or living in the same dwelling unit type.

25. “User class average” means total wastewater discharge for a user class divided by the number of users in the class.

26. "User fee" means the basic monthly charge levied on users of the public sanitary sewerage system.

27. "Wastewater" means sanitary sewage.

28. "Wastewater system" means the sanitary sewerage systems and wastewater treatment works of Pima County.

13.24.030 Fee calculation.

A. A monthly fee shall be levied and collected from all users for the service of sanitary sewage collection, treatment, and disposal provided through the wastewater system. User fees shall be calculated according to the following rate formulas for all customers:

$$\text{Residential Monthly User Fee} = (F \times R) + \$2.49$$

$$\text{High Strength Class Monthly User Fee} = (F \times R \times HS) + \$2.49$$

Where F = Monthly wastewater flow contribution to the public sanitary sewer equal to:

One hundred percent of the metered monthly water consumption; or

The user class average flow for contributors whose water consumption is not metered; or

One hundred percent of the wastewater flow measured by:

Direct meter reading, or

The difference in direct wastewater flow meter readings, or

A combination of direct wastewater flow meter readings and metered monthly water consumption, or

Other acceptable methods.

Where wastewater flow contribution is based on metered monthly water consumption or user class average flow, this amount shall not exceed the average amount of the months of December, January, and February, computed in the same manner.

R = User fee basic rate per one hundred cubic feet (Ccf) of monthly residential wastewater flow contributions computed according to the following formula:

$$R = V + (B \times \text{COD}) + C \times \text{SS}$$

Where V = A unit flow cost rate (in dollars per Ccf) based upon the proposed annual wastewater budget and the total volume of wastewater discharged by all users.

B = A cost rate to treat a unit quantity of chemical oxygen demand (in dollars per pound of chemical oxygen demand) based upon the proposed annual wastewater budget and the total annual quantity of chemical oxygen demand contributed by all users.

C = A cost rate to treat a unit quantity of suspended solids (in dollars per pound of suspended solids) based upon the adopted annual wastewater budget and the total annual quantity of suspended solids contributed by all users.

COD = The rate of chemical oxygen demand per unit of flow (in pounds of chemical oxygen demand per Ccf) or the best engineering estimate thereof.

SS = The rate of suspended solids per unit of flow (in pounds of suspended solids per Ccf) or the best engineering estimate thereof.

HS = High Strength Factor determined and based on the wastewater strength of a given class relative to Residential wastewater strength.

\$2.49 = Flat administrative services charge for all users.

B. The monthly volume of discharge for all users served by a private water company shall be presumed to be one hundred percent of the average water use as reflected by the billings for the months of December, January and February.

C. If neither direct metered wastewater flow data nor metered water use data is available for a user, the discharge shall be estimated using the average unit discharge associated with that user's class.

D. The quantities of chemical oxygen demand and suspended solids used in the user fee basic rate (R) formula may be established by engineering estimation, by short-term sampling and analysis extrapolated to a yearly total, or by extensive sampling and analysis by the user or the county. The Director shall set the standards for sampling and analysis.

1. Consistent with governing regulations of the United States Environmental Protection Agency, the Director has determined that certain classes of users discharge wastewater which contains higher concentrations of chemical oxygen demand or suspended solids or both when compared to the composite strength of wastewater discharge from all Residential users. Based on such determination, the chemical oxygen demand and suspended solids concentrations and the rates determined by the rate formula for each of these certain classes of users shall be shown on the attached rate schedule.

2. A user found to discharge wastewater containing a higher concentration of chemical oxygen demand or suspended solids or both when compared to the composite strength of wastewater discharges from Residential users and who is currently not assigned to a user class will be assessed a rate based on the concentrations of chemical oxygen demand and suspended solids.

E. The per unit cost factors V, B and C in the user fee formula shall be established for the wastewater system as necessary according to the following method:

1. After preparation of an annual wastewater budget, a finding shall be made apportioning the budgeted amount among the three user fee factors. Budgeted expenditures shall be apportioned to the factor to which they are attributable or primarily related.

2. The per unit cost of each factor shall be computed by dividing the amount of the proposed annual wastewater budget apportioned to such factor by the number of units of such factor discharged into the wastewater system in the preceding fiscal year.

F. In addition to any user fees established by this chapter, a user who is detected discharging any toxic wastes into the sanitary sewerage system in violation of Chapter 13.36 of the Pima County Code shall be subject to the increased cost of the treatment of the prohibited substance. This provision shall not preclude the Director from imposing the additional penalties provided in Chapter 13.36 of the Pima County Code.

13.24.035 Special facilities.

A. Another governmental entity or a private developer may construct, as part of the public wastewater system, a sanitary sewage treatment or conveyance facility, such as a package sanitary sewage treatment plant or a sanitary sewage pumping facility with associated pressure sewers and other appurtenances, that is not included in the capital improvement program of the Department. If the facility requires expenditures for operation, maintenance, repair or replacement that are in addition to the established expenditures of the Department associated with the public gravity-flow wastewater system, it shall be treated as a special facility.

B. Prior to the activation of a special facility, the governmental entity or private developer shall enter into a written agreement requiring it to pay a special facility charge to reimburse the Department for the increased costs to operate and maintain the special facility, to repair and replace its components, and to collect flow data upon which the special facility charge is calculated. The special facilities agreement shall specify the special facility charge, the reimbursement time period, the method of reimbursement, and a procedure for periodic review of the appropriateness of the reimbursement amounts. The special facility charge may be either a uniform, fixed monthly charge or a charge per one hundred cubic feet (Ccf) of sanitary sewage flow delivered to the special facility. The special facility charges shall be in addition to other sanitary sewer fees.

13.24.040 Rate schedule.

A. The user fee rate for customers identified with each user class shall be as shown in the rate schedule codified at the end of this chapter. Each user fee rate was determined in accordance with Section 13.24.030 and is based on the following:

1. The projected annual wastewater expenditures for the wastewater system for fiscal year 2001-2002 equals Fifty-seven Million Two Hundred Seventy-seven Thousand Nine Hundred Dollars; the portion to be financed with collected user fees being Forty-one Million Five Hundred Twenty Thousand Dollars.

2. The portion of the annual wastewater expenditure attributable or primarily related to flow volume is found to be forty-five percent, which results in a per unit flow cost for fiscal year 2001-2002 of \$ 0.5855 per hundred cubic feet of discharge.

3. The portion of the annual wastewater expenditure attributable or primarily related to the chemical oxygen demand is found to be thirty-three percent, which results in a per unit chemical oxygen demand cost for fiscal year 2001-2002 of \$ 0.1031 per pound.

4. The portion of the annual wastewater expenditure attributable or primarily related to suspended solids is found to be twenty-two percent, which results in a per unit suspended solids cost for fiscal year 2001-2002 of \$ 0.1275 per pound.

B. A flat administrative charge shall be levied upon each sewer account to recover fixed system costs and costs not proportional to flow. This administrative charge shall in no event be less than Two Dollars and Forty-nine Cents per month.

C. The above-referenced rates and charges shall be reflected in sewer user bills beginning with the March, 2002 billing cycle and thereafter.

13.24.050 Use of funds--Operating expenses.

A. Revenues derived from the sanitary sewer user fee shall first be applied to meet all expenses for the annual operation, maintenance, repair and replacement of the wastewater systems, excluding special facilities.

B. Revenues derived from the sale of treatment-related by-products shall be applied to offset the operation, maintenance, repair and replacement expenses used to determine revenue needs. The sanitary sewer user fee shall be proportionately reduced for all user classes to reflect revenues derived from the sale of treatment-related by-products. The total annual revenues received from such revenue sources shall be credited to the wastewater system operating expenses no later than the fiscal year immediately following their receipt.

13.24.060 Use of funds --Bond indebtedness.

After funding the operating, maintenance, repair and replacement expenses of the wastewater system, sanitary sewer user fee revenues may be applied to bonded indebtedness in accordance with the provisions of revenue bond covenants.

13.24.070 Annual review.

The sewer user fee shall be established by the board of supervisors subject to change at any time at their discretion, following a biennial review by the Director using the method described in Section 13.24.030. The annual review shall be made to:

- A. Maintain a proportionate distribution of operation, maintenance, repair and replacement costs among users;
- B. Generate sufficient revenue to pay the costs of operation, maintenance, repair and replacement of the public wastewater system, except special facilities; and
- C. Apply excess revenues collected from a class of users to the cost of operation, maintenance, repair and replacement attributable to that class for the next year and adjust the rates accordingly.

13.24.080 Financial management system.

With the assistance of the Pima County finance department, an adequate financial management system shall be maintained to accurately account for operation, maintenance, repair, and replacement revenues and expenditures. The financial management system shall be based on an adequate budget identifying the basis for determining annual operating, maintenance, repair, and replacement costs and costs for personnel, material, energy and administration.

13.24.090 Billing.

A. Each user shall be notified annually, at the beginning of the year and in conjunction with a regular bill, of the user fee rate being applied to the user's class and that portion of the user charges attributable to services provided by the wastewater system, excluding special facilities charges.

B. A user fee billing shall be voided if a dye test performed by the Department shows that the property for which the user fee billing was issued is not serviced by the public sanitary sewerage system.

1. Where the Department has an inspected sanitary sewer connection permit record for a property, any dye test performed on the property shall be performed at the expense of the requester.

2. Where the Department does not have a record of an inspected sanitary sewer connection permit for a property, and:

a. If the dye test is requested within sixty days of the recipient's initial billing date, the dye test shall be performed at the expense of the, Department, but

b. If the dye test is requested after said sixty-day period, the dye test shall be performed at the expense of the requester.

3. When a dye test is requested to determine if a property is connected to the public sanitary sewage conveyance system for the purpose of offering the property for sale, the dye test shall be performed at the expense of the requester.

4. When the Department determines that the dye test fee shall be paid by the requester, the dye test fee shall be paid prior to performing the dye test. The dye test fee shall be fifty dollars for a single dye test requested on a property at a single address. When more than one dye test is requested by a single requester for two or more residential units that are located on a single property or that are on properties that are immediately adjacent to each other, and when all of the residential units or properties are tributary to the same reach of public sanitary sewer, the additional cost for each additional dye test shall be twenty dollars.

C. If a dye test verifies a property is connected to the public sanitary sewer system, it shall thereafter be billed a sewer user fee. In addition, it shall be billed class-average user fees from the date the property was connected or, if a connection date cannot be established, class-average user fees for the previous three years. If the property was connected after June 30, 1979 and county records show no connection fees were paid, sewer connection fees shall be paid pursuant to §13.20.40A.

13.24.100 Private wells and private water companies.

A. Governmental, commercial and industrial users with private wells shall provide discharge quantity information to the county on forms approved by the Director. To provide such information, the user shall either install a permanent flow meter on his water wells or install a wastewater metering device on each sanitary sewage conveyance system. A residential user with a private well, in lieu of being charged the average user fee for his user class, may provide discharge quantity information as provided above. The meter or metering device to be installed shall be equal in quality to the meters or metering devices used for similar purposes by the City of Tucson Water Department or the Pima County Wastewater Management Department.

B. A user whose water is supplied by a private water company shall be subject to the data reporting provisions of this section, unless the private water company provides the county with itemized monthly records of delivered water in a form approved by the Director.

C. A commercial or industrial user that fails to provide the required discharge quantity information shall pay, in addition to the average monthly user fee calculated from the last available six months of monthly discharge reports provided by the user, an administrative fee equal to twenty-five percent of the average monthly user fee.

D. Department inspectors shall have access at all reasonable times to metering devices on private sanitary sewage conveyance systems or on private wells.

13.24.110 Sub-billings.

Users, such as landlords, that issue sanitary sewer sub-billings which refer to a Pima County sanitary sewer user fee shall state the Pima County sanitary sewer user fee as a separate item on all

billings. In a sub-billing, no user shall refer to a sanitary sewer user fee assessed by Pima County, except in a fashion truly reflecting the actual amount assessed by Pima County. Violations shall be referred to the Pima County Attorney.

13.24.120 Protest and review.

A. Any user may protest in writing to the Director to request a review within sixty days after receipt of a bill reflecting a new user fee or usage class. Such written protests shall include itemized objections to the fee or class used in the bill's computation. Requests to review special facilities charges shall be made in accordance with the terms of the applicable special facilities agreement.

B. A user whose monthly billing is reviewed pursuant to this section shall have the burden of showing that any or all of the computations were erroneous or misapplied.

C. The Director, upon finding that a user's protest is well founded, shall adjust the established user fee or usage class and make equitable reimbursements for any overpayments. For this purpose, the Department shall retain billing records on all sewer accounts for a minimum of five years.

D. A user may request an adjustment based on monthly vacancy information. The user shall provide thirty days prior notice of vacation, tenant vacancy or other verifiable cause of non-occupancy resulting in no discharge to the sewer system. Filing a false notice is subject to the penalties of A.R.S. § 39-161.

E. A multifamily residential user, such as an apartment complex, whose billing is based on December, January and February water consumption data, or the class average consumption for its usage class, may request an adjustment based on average monthly unit occupancy for the previous fiscal year. The data may be used to derive an average annual percentage of unit occupancy by which the winter water average consumption determination will be adjusted. The user shall provide verifiable occupancy data for every month of the previous fiscal year. The occupancy data shall be filed within sixty days after receipt of a bill reflecting a new user fee or usage class. The data may be used to adjust only the following fiscal year. Any adjustment shall be subject to a reporting schedule, verification procedures or other conditions of service required by the Department. Filing false data is subject to the penalties of A.R.S. § 39-161.

F. The billing of a user may be reduced to reflect verified amounts of water that are not returned to the public sanitary sewerage system, by excluding, for example, water consumed in outdoor irrigation or industrial processes.

1. The determination of the amount of water not returned to the public sanitary sewerage system shall be based on:

a. Separate Metering. A user may have separate meters installed by a water company to measure water returned to the public sanitary sewerage system and water not returned to the public sanitary sewerage system. The meter which measures the water returned to the public sanitary sewerage system shall be read and reported to the Department by the water company.

b. Secondary Metering. In special circumstances approved by the Director, a multifamily residential, industrial or commercial user may install a secondary meter to measure either water returned or not returned to the public sanitary sewerage system, which shall be read and reported to the Department by the user according to a monthly reporting schedule, verification procedures and other conditions of service required by the Department. The secondary meter shall be equal in quality to meters used for similar purposes by the Tucson Water Department.

2. The Department may charge a fee for these arrangements which shall not exceed the actual cost of administration and verification.

3. Filing false data is subject to the penalties of A.R.S. § 39-161.

G. A user on a private well shall provide the Department with access to the well and report water use data in a form acceptable to the Department. The Department may charge a fee for these arrangements which shall not exceed the actual cost of administration and verification. A user on a private well may request adjustments provided in subsections D, E and F of this section.

H. The Director may promulgate rules applicable in protest proceedings and may adopt standards to be applied in measuring the validity of established fees and monthly discharge factors. Such rules and standards shall be subject to approval of the board of supervisors.

I. Where data on flow volume, chemical oxygen demand or suspended solids are reported to the county by the user and form the basis for that user's fee, such data shall be subject to county verification. If subsequent measurements or other investigations reveal that such user is discharging a volume of flow, chemical oxygen demand or suspended solids significantly in excess of that reported to the county, the Director may assess such user according to the data obtained by the county retroactive to the time of the user's latest report, together with any applicable delinquent charges, penalties, and interest as provided in Section 13.24.170. Prior to revising a sewer user fee pursuant to this subsection, the county shall obtain at least two twenty-four-hour samples and flow measurements.

J. The discharge volumes for all users shall be estimated annually but may be changed at any time to reflect the actual measured volume. The Director, upon a finding that the methods enumerated in Section 13.24.030 do not reasonably reflect the average volume discharge of a user class, may establish a more accurate method and notify the affected users. Such revised methods for user classes shall be subject to the approval of the board of supervisors.

13.24.130 Deposits.

The Director or his agent may require a deposit of not less than two months nor more than twelve months estimated sanitary sewer user fees from any user.

13.24.140 Service discontinuance.

Any person wishing to discontinue the use of the wastewater system of Pima County must give notice to the municipal corporation, the special taxing district, or the private water company

supplying water to such person, as the case may be, or the sanitary sewer user fee will be entered until such notice has been given. In the event any such person is supplied water by a private well, notice must be given to the Pima County Wastewater Management Department. The charge for reactivation of wastewater service, the transfer of service from one customer to another, or the procurement of initial service shall be ten dollars in each instance.

13.24.150 Payment.

User fees are due and payable at the office of the Department billing agent not later than twenty days after the “service to” date on the bill.

13.24.160 Application of payment to user and water charges.

Sanitary sewer user fees levied in conjunction with water charges made by the Department’s billing agent shall be in addition to such water charges. The user fee combined with the water charge shall be the total amount due for any one billing period. If any lesser amount is paid, the amount paid shall be applied on a prorated basis to any water charge levied by the Department’s billing agent and to the sanitary sewer user fee, except as may be governed by the specific agreement between the Department and its billing agent.

13.24.170 Delinquency and penalties.

A. Unpaid user fees are delinquent after thirty days from the “service to” date on the user fee bill. If the unpaid balance and any interest and penalty charges are not paid within ten working days from the date of the delinquent notice, the Director or his agents may take appropriate legal actions to ensure that the delinquency is paid. For delinquent charges that require legal action for collection, an interest charge of ten percent per year from the date of delinquency shall be added and a penalty charge of ten percent of the unpaid balance or ten dollars, whichever is greater, may be added.

B. Pursuant to A.R.S. § 11-264, county may file a lien on property for the nonpayment of sewerage system user fees if the payment of the fees is delinquent for more than ninety days. The unpaid fees, from the date of recording in the office of the county recorder, are a lien on the property until the fees are paid. The lien is subject and inferior to the lien for general taxes and to all prior recorded mortgages and encumbrances of record. A sale of the property to satisfy a lien obtained under this section shall be made on judgment of foreclosure and order of sale. Unpaid sewerage system user fees pursuant to this section accrue interest at the rate of ten per cent per annum.

13.24.180 Rate schedule--Table.

Monthly bills are computed and charged to wastewater customers by user class as set forth in the table below, and are based on the average wastewater strengths shown:

User Class	Class Name	Average Wastewater Strength (Pounds per Ccf)		High-Strength Factor	User Fee Rate (Dollars per Ccf)
		COD	SS		
--	Residential/All other Customer Classes	2.14	1.52	1.00	1.00

User Class	Class Name	High-Strength Factor	User Fee Rate (Dollars per Ccf)
3C	Auto Body and Fender Repair	2.10	2.10
3K	Mortuary	1.09	1.09
3N	Laundromat	1.09	1.09
4E	Pet Clinic	1.20	1.20
4G	Restaurant,	2.03	2.03
4H	Restaurant, fast food	2.32	2.32
5A	Car Wash, self-service	1.19	1.19
5C	Bottling Company	1.68	1.68
5F	Printing; Copying	1.01	1.01
5G	Electrical Component	1.14	1.14
5I	Industrial Laundry	1.06	1.06
5J	Bakery	3.63	3.63
5K	Miscellaneous	2.33	2.33
5L	Chemical, Pharmaceutical	1.25	1.25
5M	Meat Packing;	2.38	2.38
5S	Car Wash, full service	1.23	1.23

13.24.190 Precedence over inconsistent agreements.

This chapter shall take precedence over any agreement between Pima County or its predecessors and a user which is inconsistent with this chapter.

SECTION 2. *Conflicting Provisions.* If any other provision of the Pima County Code conflicts with the provisions of this ordinance, the more restrictive provisions shall apply.

SECTION 3. *Severability.* If any provisions of this ordinance, or the application thereof to any person or circumstance, is invalid, the invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or circumstance, and to this end the provisions of this ordinance are severable.

SECTION 4. *County Officers and Employees.* The various county officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

SECTION 5. *Effective Date.* This ordinance shall become effective 31 days after its adoption.

PASSED AND ADOPTED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, THIS _____ DAY OF _____, 2002.

ATTEST:

BOARD OF SUPERVISORS:

Lori Godoshian,
Clerk of the Board

Chair, Pima County Board of Supervisors

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Deputy County Attorney

Director, Wastewater Management