CITY OF CLARKSTON
CITY COUNCIL AGENDA
829 5th Street
TUESDAY, MAY 26, 2015

1. **CALL TO ORDER:** **7:00 P.M.**
2. **PLEDGE OF ALLEGIANCE:**
3. **AGENDA CHANGES:**
4. **APPROVAL OF MINUTES:**
   May 11, 2015, Regular Meeting

5. **COMMUNICATIONS:**
   - A. **From the Public** (Please limit comments to 3 minutes)
   - B. **From the Mayor**
   - C. **From Staff or Employees**

6. **COMMITTEE REPORTS:**
   - A. **Finance – Audit Report on Current Bills**
   - B. **Public Safety – May 19**
   - C. **Public Works – May 20**
   - D. **Administrative/Intergovernmental – May 26**
   - E. **Community Development – May 19-No Meeting**

7. **UNFINISHED BUSINESS:**

   A. Process for Appointment to fill Council
   B. Interlocal Agreement for E911 and Non-Emergency Dispatch Services

8. **NEW BUSINESS:**

   A. Right of Way Lease, Sycamore Street (PW)
   B. Ordinance No.1540-Sewer Pre-Treatment Update-1st Reading

9. **COUNCIL COMMENTS**
10. **MEDIA QUESTIONS**

11. **ADJOURN:**

Time limits for addressing the council have been established by council direction. Presentations are limited to 15 minutes and public comments are limited to 3 minutes per person, per topic.

Individuals with disabilities may request reasonable accommodations by calling (509) 769-0131 at least three days prior to meeting.

CLARKSTON CITY COUNCIL MINUTES
May 11, 2015

COUNCIL:

☒ Beadles	☒ Nash
☒ Provost	☒ Manchester
☒ Kolstad	☒ Blackmon

STAFF:
☒ Chief Hastings ☒ Chief Cooper ☒ Clerk Storey ☒ City Attorney Grow ☒ PWD Martin

AGENDA CHANGES: Mayor Warren announced that Larry Baumberger has resigned from the council and added the process for appointing new councilmember to New Business.
Councilmember Manchester added a proclamation for Older Americans Month to New Business. A correction should be made to the proclamation as to the number of older Americans in Clarkston.

APPROVAL OF MINUTES: MOTION BY BEADLES/NASH to approve the minutes of the April 27, 2015, Regular Meeting and the April 30, 2015 Special Meeting. Motion carried.

COMMUNICATIONS:

A. **From the Public**: Jill Eckberg, 1126 5th Street, spoke on the Transportation Benefit District fees. She said when she went to license one of her vehicles it was not subject to the $20 fee because the renewal date was prior to April 1. Two other vehicles she owns are subject to the fee. She said the licensing clerk couldn't tell her what the money was for and said many people are using addresses outside of the city to avoid the fee. She urged the council to educate the licensing clerks and ask them to encourage people to pay the fee.
Eckberg said the council should approve the lodging tax funds for the Wine Alliance.
Alice White, 742 13th Street, said last time she was at council she spoke about sidewalks and apologized to PWD Martin if it sounded like she thought he wasn't doing his job.
White said she and her husband would like to have a "hands across the bridge" event on Flag Day to raise awareness and show community support for our law enforcement agencies. She passed around some fliers for the event.
Sherri Greenup, 508 Sycamore, said "hands across the bridge" is also used for a recovery month event. She said people might be confused between the two events and suggested Alice might find a different title for her event.
Sherri said she also works for Aging and Long Term Care and is the person who brought the Older American Month proclamation to council. She hopes it brings awareness of the services available to the older citizens. Mayor Warren asked about the number of older Americans stated in the proclamation. The line will be changed to say the State of Washington instead of Clarkston.

B. **From Mayor:** Mayor Warren said a Councilmember Baumberger resigned last week and council will need to set a process for appointing a replacement who would serve until the November election.

C. **From Staff:** PWD Martin said that kudos were given to him at the last meeting for the entry project at the south end of town. He gave credit to the street crew for the improvements.
Councilmember Manchester announced that he will be moving out of the city and will be resigning from the council in the next two to three months.

COMMITTEE REPORTS:

Finance: Councilmember Provost reported the bills were reviewed and approved for payment. Total expenditures for April 30, 2015 of $396.18 and for May 11, 2015 of $1,009,957.05. MOTION BY

PROVOST/BEADLES to approve the bills. Motion carried.

Public Safety: Committee met May 5, 2015. Councilmember Beadles reported that eleven firefighters will be attending the Hammer training at Hanford. Chief Hastings discussed the EVOC training that will be conducted in Spokane. The new patrol vehicle has arrived. Inland Cellular will be running a "don't text and drive" campaign. Signs to discourage panhandling have been installed.

Public Works: No meeting.

Admin Committee: Councilmember Manchester said committee met May 11. He said they reviewed the Older Americans proclamation. They are also reviewing an ordinance to set standards for public defenders.

Community Development: Committee met on May 5. Brad Styner of SEWEDA discussed a strategic planning meeting that will be held on May 12. Committee reviewed a letter regarding the annual "I Made the Grade" bicycle event to be held on June 13. Belinda Campbell discussed signs that promote bicycling in the valley.

UNFINISHED BUSINESS:

A. Ordinance No. 1538, Zoning Map Amendment re: 1226 and 1234 Chestnut – 2nd Reading

Ordinance No. 1538 was read by title. MOTION BY NASH/BEADLES to adopt Ordinance No. 1538. Blackmon asked the reason for the change. PWD Martin said the owner is proposing a coffee shop. Motion carried.

B. Ordinance No. 1539, Franchise Agreement with PUD – 2nd Reading

Ordinance No. 1539 was read by title. MOTION BY NASH/BLACKMON to adopt Ordinance No. 1539. Nash asked if the only difference from the prior agreement is the term. Martin said it is. Motion carried.

NEW BUSINESS:

A. I Made the Grade Event Notice

Councilmember Beadles said this was just a courtesy notice of the event to be held on June 13.

B. Lodging Tax Funding Request – Lewis Clark Wine Alliance

Councilmember Beadles said the Lodging Tax Advisory Committee met to review the application and have recommended that the $10,000 funding request be approved. Dana Arnett spoke about how her family planted grapes many years ago. She said a winery can purchase grapes from anywhere to make their wines, but with the development of an AVA, they would have to use local grapes. Wanda Keefer, Port Manager, said assistance from the city would be appreciated. Councilmember Blackmon asked Mrs. Arnett where her vineyard is. She said it is on the hillside off of 13th Street.

Councilmember Beadles said he is in favor of the project and knows that other areas have wine tours. He thinks this area could be incorporated. Councilmember Provost thanked them for bringing something positive to council.

MOTION BY BLACKMON/NASH to approve the funding request for lodging tax funds. Motion carried.

C. Process to Appoint Councilmember to fill Larry Baumberger's Position

Mayor Warren said the council should set a timeline for accepting applications and interviewing. MOTION BY PROVOST/KOLSTAD to table discussion until the next meeting. Motion carried; 5-1, Nash opposed.

D. Proclamation – Older Americans Month

DRAFT

MOTION BY MANCHESTER/NASH to authorize the mayor to sign the proclamation, with a change on line one to State of Washington instead of City of Clarkston. Motion carried.

COUNCIL COMMENTS:

Councilmember Beadles commented on how nice the parks are looking.

Councilmember Blackmon said he noticed with all the law enforcement officers in the area for training recently, that people were driving slower and more carefully.

EXECUTIVE SESSION: Council adjourned to Executive Session to discuss litigation and union negotiations at 7:35 p.m. Anticipated length of session is 15 minutes. Action is expected as a result of the session on union contracts.
Council returned to open session at 7:51 p.m.

MOTION BY NASH/BLACKMON to approve the signing of bargaining agreements with Police and Police Support groups. Motion carried, 5-1, Provost opposed.

PWD Martin said he was asked if there is any information on what is involved in being a councilmember. Information will be added to the web site.

MEDIA QUESTIONS:

ADJOURNMENT:

Meeting adjourned at 7:53 p.m.

Vickie Storey, City Clerk

Kathleen A. Warren, Mayor

Total Fund Expenditures, 4/30/15	Ck # 20150402, 3, 7-9	$396.18
Total Fund Expenditures, 5/1.1/15	Ck # 59063, 65-139	$732,936.97
Payroll, 4/30/15	Ck # 59012-62, 64	$277,020.08

DRAFT

Public Safety Committee

May 19, 2015

Attendance: Chief Cooper, Jim Braddock, Terry Beadles

Chief Cooper presented the Interlocal Agreement for E911 and Non-Emergency Dispatch Services. This agreement will be presented to the Council May 26th for action. (Agenda item for council action).

We discussed the products and services for seniors who live alone (Life Alert, Life Line and many others). The problem of seniors who fall with locked doors was addressed. There are procedures for our emergency personnel to enter the home in this crisis. Chief Cooper would like care givers to contact him about options to help solve the problem of injured seniors with locked doors.

The mutual aid agreement with Asotin County Fire District and the City of Asotin is in process. Chief Cooper and Chief Hardin continue to address details of this agreement.

INTERLOCAL AGREEMENT FOR E911 AND NON-EMERGENCY DISPATCH SERVICES BETWEEN ASOTIN COUNTY AND CITY OF CLARKSTON

This Interlocal Agreement for E911 Emergency Communications and Non-Emergency Dispatch Services (hereinafter referred to as "Agreement') is made and entered into by and between ASOTIN COUNTY (hereinafter referred to as County) and the CITY OF CLARKSTON (hereinafter referred to as City) also referred to as PARTIES pursuant to RCW 39.34.

WITNESSETH:

WHEREAS the County has entered into an agreement with WHITCOM COMMUNICATIONS CENTER for the purpose of providing emergency and non-emergency communications services (that document is attached as Exhibit A and incorporated by reference); and

WHEREAS the Interlocal Agreement is for the benefit of the County and provides services to Asotin County, the City of Clarkston, Asotin Fire District No. 1, the City of Asotin and Blue Mountain Fire District; and

WHEREAS: The City of Clarkston provides law enforcement, fire suppression and ambulance services within the City and has used WHITCOM services in the past and wishes to continue utilizing WHITCOM services; and

WHEREAS both the City and County believe that the best and most efficient use of current resources is to enter into a contract that extends WHITCOM services to the City and;

NOW THEREFORE, the County and City agree as follows:

1. The City will receive the same services as set forth in the County's contract with WHITCOM for emergency communications, non-emergency communications and dispatch services. These services will be provided from July 1, 2014 through June 30, 2019 subject to the early termination provisions contained in paragraph 9 and subject to a mutually agreed extension as provided in Paragraph 4.

2. Pursuant to recommendations of the Advisory Committee, the cost of the services will be based on events (calls plus traffic stops) made through WHITCOM from a yearly report from Whitcom. The County will request a report of events from WHITCOM to be delivered by March 31 of every year. The report will be distributed to members of the members of the Advisory Committee, elected officials and the County E 911 coordinator upon receipt. The proportionate share of the calls reported by WHITCOM will be calculated annually by the County and the change in cost will be effective July 1 of each year of this contract.

3. Based on the recommendation of the Advisory Committee the cost for each entity will be calculated in the same proportion as the proportion of Whitcom events (calls plus traffic stops) for Asotin County, City of Clarkston, City of Asotin and Asotin County Fire District No. 1 (Blue Mountain Fire District) is currently using the system free of charge, but nothing in this agreement prevents the County from seeking a subscription fee or other payment from Blue Mountain Fire District.

The cost will be determined by subtracting the Whitcom contract amount from the annual E911 excise tax revenue multiplied by the percentage of total Whitcom events (calls and traffic stops) reported by Whitcom.

3.1 For July 1, 2014 through June 30, 2015, the proportions calculated from 2013 call volume will be:
Asotin County - 37.28% of the 2013 call volume for an amount of $48,486.00, difference between WHITCOM billing and County E911 tax revenue

City of Clarkston - 48.62% of the 2013 call volume for an amount of $63,220.00, difference between WHITCOM billing and County E911 tax revenue

City of Asotin - 6.53% of the 2013 call volume for an amount of $8,498.00, difference between WHITCOM billing and County E911 tax revenue

Asotin County Fire District No. 1 - 7.57% of the 2013 call volume for an amount of $9,840.00, difference between WHITCOM billing and County E911 tax revenue

Blue Mountain Fire District - 0% of the difference between WHITCOM billing and County E911 tax revenue

3.2 For July 1, 2015 through June 30, 2016, the proportions calculated from 2014 call volume will be:
Asotin County - 36.13% of the 2014 call volume for an amount of $25,635.00, difference between WHITCOM billing and County E911 tax revenue

City of Clarkston - 51.42% of the 2014 call volume for an amount of $36,478.00, difference between WHITCOM billing and County E911 tax revenue

City of Asotin - 4.17% of the 2014 call volume for an amount of $2,960.00, difference between WHITCOM billing and County E911 tax revenue

Asotin County Fire District No. 1 - 8.27% of the 2014 call volume for an amount of $5,870.00, difference between WHITCOM billing and County E911 tax revenue

Blue Mountain Fire District - 0% of the difference between WHITCOM billing and County E911 tax revenue.

3.3 For the term of this agreement July 1, 2014 though June 30, 2019 the City shall pay to the County in quarterly increments (July, October, January and April).

4. This agreement may be extended beyond the termination date subject to negotiation between the County and the City, and subject to any terms agreed upon by the County and WHITCOM. The parties agree to commence extension negotiations a minimum of six months prior to the end of the term of the Agreement or upon receipt of proposed new agreement from WHITCOM, whichever comes first. Neither the City nor the County is responsible for the independent acts and/or omissions of the other PARTY, and its officers, employees, and agents. Nothing in this agreement prevents the parties from considering any recommendations of the Advisory Committee at any time.

5. Further, it is the intent of the PARTIES that each PARTY shall be responsible for the negligent, willful, or intentional acts or omissions of the PARTY and its officers, employees and agents. Each PARTY agrees to indemnify, defend, and hold harmless the other PARTY, its agents, officers, and employees from all claims whatsoever that may arise against the other PARTY as a result of the negligent, willful or intentional acts or omissions of the PARTY and its officers, employees and agents. Each PARTY shall process and defend, at its own expense, any and all claims of whatsoever kind or nature, with respect to that PARTY'S acts or omissions of services or otherwise in response to E911 or emergency or non-emergency dispatch calls from WHITCOM.

6. In recognizing that each PARTY can only receive budget approval for one (1) fiscal year at a time, non-appropriation will be a legitimate reason to release from this agreement provided thirty (30) days' written notice is given to the other PARTY; and no other funds are appropriated for the same fiscal period that would provide essentially the same or similar services (emergency communications, emergency and routine dispatch, and related services set forth herein) as outlined in this agreement.

7. This agreement may be terminated by either the City or County upon one (1) year's prior written notice. If this agreement is terminated prior to the expiration of its term, payment for emergency communication and dispatch services will be prorated to the date of termination. Rates of payment are set forth above. In the event a PARTY fails to timely make a quarterly payment, the County shall provide the PARTY with notice of non-payment. The PARTY shall have 30 calendar days from the date the notice is received to cure the non-payment or to demand mediation to resolve the dispute over payment. If mediation is unsuccessful in resolving the payment dispute, the County may terminate the Agreement 30 days following the conclusion of the mediation.

8. The City's obligations and the County's obligations hereunder are contingent upon WHITCOM's agreement with the County to provide services to Asotin County pursuant to the attached agreement Any refusal by WHITCOM to provide such services shall render this agreement null and void.

9. Previous contracts between the County and the City for dispatch services are rendered null and void upon signing of this contract.

10. This agreement shall be governed by the laws of the State of Washington, both as to interpretation and performance. As a further condition of this agreement, the PARTIES acknowledge that this agreement shall be deemed and construed to have been prepared mutually by each PARTY and it shall be expressly agreed that any uncertainty or ambiguity existing therein shall not be construed against either PARTY. Disputes between the Parties shall first be addressed through discussion and negotiation by representatives of each PARTY. Should resolution via discussion and negotiation be unsuccessful, the Parties shall agree upon a third party to provide non-binding mediation of the issue prior to institution of litigation. Each PARTY shall bear its own costs.

11. The terms of this agreement may be amended by mutual agreement of the City and County, subject to the attached agreement with WHITCOM (Master Agreement). Any suggested changes will be submitted to the Advisory Committee who will have 60 days to review the agreement with all other agencies and respond to the party offering an amendment. If the City disagrees with the response from the Advisory Committee, the proposal may be made to the County who has 45 days to agree, disagree or offer a counter proposal. The parties are aware only the County can request a modification of the master agreement, attached and incorporated by reference, and that any modification of the master agreement will affect all other parties.

12. Any notice under this agreement shall be in writing and shall be effective when actually delivered or three (3) days after deposit in the United States Postal Service mail addressed to the parties as follows:

City of Asotin:
City of Clarkston
829 5th Street
Clarkston WA 99403

Asotin County:
Asotin County Board of County Commissioners
P.O. Box 250
Asotin WA 99402

IN WITNESS WHEREOF, the parties have sent their hands and affixed their seals as of the date and year listed herein below written.

DATED this _____ day of _____ 2015.

CITY OF ASOTIN

_____

Kathleen Warren, Mayor

(Attest)

_____

Vickie Storey, City Clerk/Treasurer

Approved as to form:

_____

James W. Grow, Jr., City Attorney

ASOTIN COUNTY BOARD OF COMMISSIONERS

_____

Jim Jeffords, Chairman

_____

Brian Shinn, Vice Chairman

_____

Jim Fuller, Member

Attest:

_____

Vivian Bly, Clerk of the Board

Approved as to form:

_____

Jane Bremner Risley, Deputy Prosecutor

CITY OF CLARKSTON
LEASE OF RIGHT-OF-WAY

THIS LEASE is made and entered into this _____day of _____, 2015, by and between the CITY OF CLARKSTON, a municipal corporation hereinafter referred to as "Lessor", and Richard Flerchinger, hereinafter referred to as "Lessee".

WHEREAS, the City, as a municipal corporation, and is authorized to regulate and control the use of streets and highways within the corporate limits of the City; and

WHEREAS, the Lessee has requested permission to use and acquire a construction permit from the City, for the purpose of allowing an improvement to encroach within the public right of way controlled by the City. The purpose of this improvement is for public use as outdoor dining.

In consideration of the recitals set forth above, and the terms, conditions, and covenants hereafter the Parties agree as follows:

1) GRANT: The Lessor hereby grants Lessee permission to use, occupy, and encroach upon the public right of way specifically set forth in Exhibit "A", with the purchase and approval of a construction permit for the needed improvements. Upon written consent of the Lessor, Owner may transfer or assign its' interest herein.
2) PURPOSE: The purpose for the Lessee's encroachment upon the public right of way is to allow Lessee to construct, maintain, remove, and repair the improvement(s) which are described on Exhibit "B" attached hereto. This agreement does not relieve Owner from its' obligation to secure additional permits and bonds as required by the City prior to any work being performed in the public right of way.
3) COVENANTS BY OWNER:

(a) Construction / Maintenance. Lessee shall construct and maintain the improvement in accordance with the plans and hereinafter "Permitted Encroachment". The Permitted Encroachment shall be: (1) Subject to approval by the Public Works Director. (2) designed, built, and maintained as so not to create a hazard to persons or property or violate any City Ordinance or State law. In the event Lessee fails to repair or maintain the Permitted Encroachment to the satisfaction of the Public Works Director, the City at its' sole option and discretion, may perform maintenance and repair with Lessee liable to the City for the cost of such maintenance of repair; and (3) The City has the right to remove improvements should the need arise for street improvement. (4) The Lessee Must receive approval from the Lessor for any improvements. (5) Should the Lessee's intent be to serve alcohol on leased right of way, the Lessee will provide proof from the Liquor Control Board that they approved the project.

(b) Hold Harmless. Lessee shall indemnify, hold harmless and defend (including attorney fees) the City, its' officers, agents, and employees harmless and free from all loss and liability for any claim by any person, or for any injury or

property damage resulting from, or by reason of, the construction, maintenance, operation, repair, or use of the City right of way described in Exhibit "A" pursuant to this permit including the enjoyment of all privileges under this Permit. This hold harmless provision being part of the consideration upon which lease is granted.

(c) Insurance. Lessee agrees to maintain Commercial general liability insurance in the amount of $1,000,000.00 per occurrence naming the City as additional insured. See Exhibit "C". The City shall receive a copy or satisfactory evidence that this policy has been purchased and is in full force. It shall also be provided to the City of Clarkston within twenty-four (24) hours of a request from the Mayor, Public Works Director, or Clerk Treasurer. Notice of cancellation shall be sent to the City thirty days prior to any insurance cancellation.

(d) Bond. The Lessee shall post a bond for removal of appurtenances in the event that the business should fail, move, etc. See Exhibit "C".

4) Term. The term of this lease shall be five (5) years, commencing on the _____ day of _____, 2015 and terminating five (5) years thereafter with the option to extend said lease for up to three more 5 year terms. If the business changes ownership, the Lessee will review the lease. The lease will be cancelled if the new owner does not sign the agreement.

5) Rent. Lessee shall pay Lessor for the rent of said premises the sum of One Hundred Dollars, ($100.00) to be paid in advance. The rent shall be paid annually when the permit is renewed.

This agreement is entered into on this _____ day of _____, 2015.

CITY OF CLARKSTON

_____
Kathleen A. Warren, Mayor

Attest:

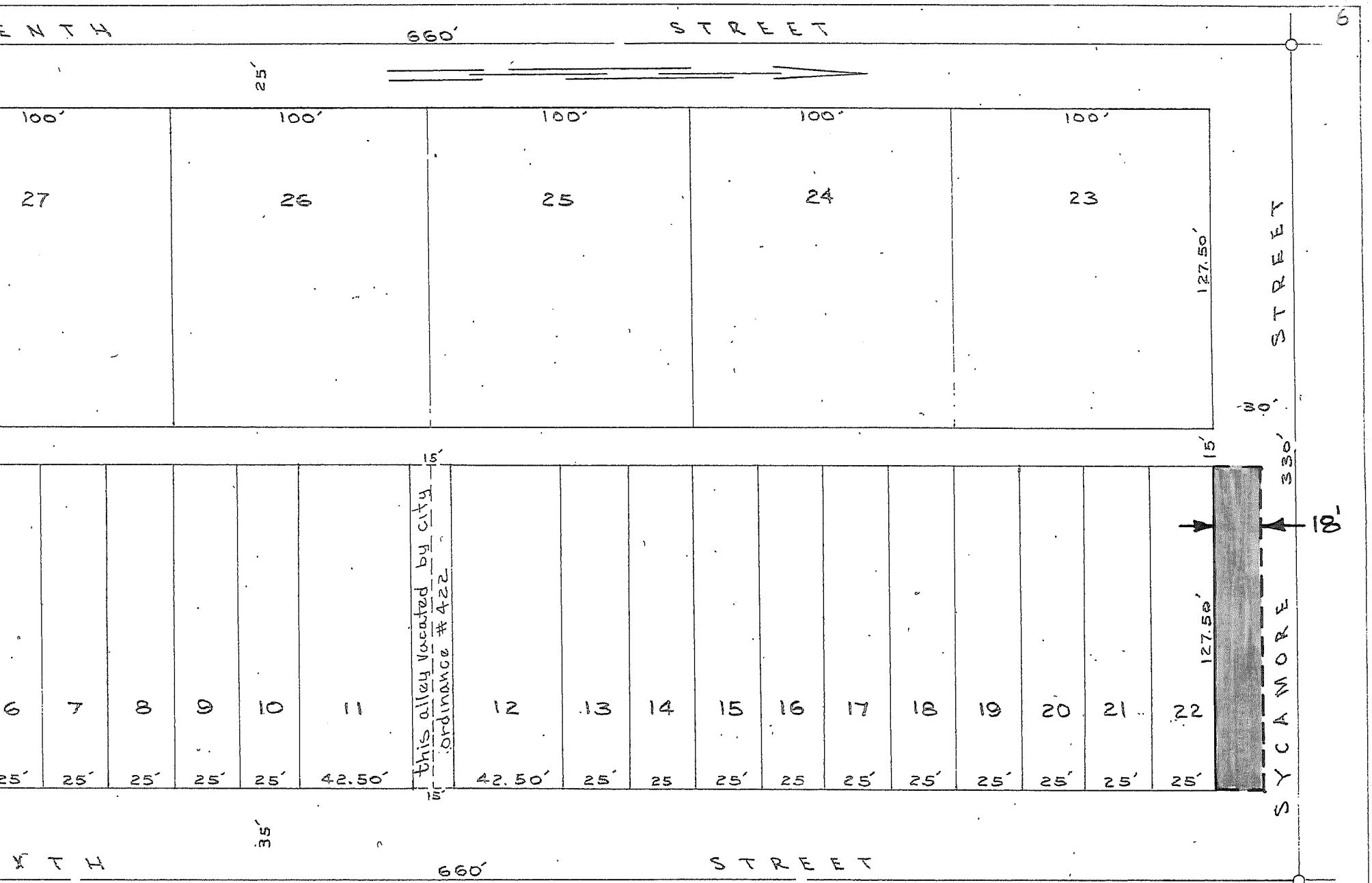
_____
City Clerk

Approved as to form:

_____
James W. Grow
Attorney for the City of Clarkston

EXHIBIT "A"
RIGHT OF WAY LEASE AGREEMENT

Right of way lease area for the development of outdoor seating for a restaurant, more particularly described as that area bounded by the westerly right of way line of 6th Street (State Route 129) and the easterly right of way line of the alley located in Block 6 of Clarkston, (127.50 ft.) Incorporating the south 18 feet of said Sycamore Street right of way as the leased area.



at Filed for Record in Asotin County SEPT 11, 1896

SON & ASSOCIATES
, Washington
50

BLOCK 6

OF CLARKSTON
ASOTIN COUNTY, WASHINGTON
Scale: 1"=50'

4-6-50

ORDINANCE NO. 1540

AN ORDINANCE OF THE CITY OF CLARKSTON, WASHINGTON RELATING TO THE ADOPTION OF REGULATIONS RELATING TO THE OPERATION OF IT'S PUBLICLY OWNED TREATMENT WORKS MODIFYING CHAPTER 14.14.010 OF THE CLARKSTON MUNICIPAL CODE.

WHEREAS, the City of Clarkston (the "City") Publicly Owned Treatment Works is regulated under the Washington State Department Ecology; and

WHEREAS, the City is responsible to meet Ecology requirements;

NOW, THEREFORE, the City Council of the City of Clarkston, Washington, in a regular meeting assembled, does ordain as follows:

Section 1, Chapter 14.14.010 through Chapter 14.14.450 of Clarkston Municipal Code is modified to read as follows:

Chapter 14.14
UNIFORM REQUIREMENTS FOR USERS OF THE PUBLICLY OWNED TREATMENT WORKS AND ASSOCIATED REGULATIONS

Article I Administration
Sections:

14.14.010 Policy and Purpose
14.14.020 Administration
1414.030 Definitions
14.14.040 Abbreviations
Article II General Requirements
14.14.050 Prohibited Discharge Standards
14.14.060 Federal Categorical Pretreatment Standards
14.14.070 State Requirements
14.14.080 Local Limits
14.14.085 City of Clarkston's Right of Revision
14.14.095 Excess Strength Charges
14.14.100 Special Agreement
14.14.110 Dilution
14.14.120 Pretreatment Facilities
14.14.130 Deadline for Compliance with Applicable Pretreatment Requirements
14.14.140 Additional Pretreatment
14.14.150 Accidental Spill / Sludge Discharge Control Plans
14.14.155 Acceptance of Liquid Hauled Wastes
Article III Wastewater Discharge Permit Requirements
14.14.160 Requirements To Complete Industrial User Surveys
14.14.170 Wastewater Discharge Permitting Requirements for Discharge
14.14.180 Permit Requirements for Dangerous Waste Constituents
Article IV Reporting Requirements
14.14.190 Disclosure of Records
14.14.200 Reports From Unpermitted Users
14.14.210 Reporting Requirements for Dangerous Waste Constituents
14.14.220 Record Keeping
Article V Sampling and Analytical Requirements
14.14.230 Sampling Requirements for Users
14.14.240 Analytical Requirements
14.14.250 City of Clarkston Monitoring of Wastewater

Article VI Compliance Monitoring
14.14.260 Right of Entry for Inspection and Sampling
14.14.270 Monitoring Facilities
14.14.280 Search Warrants
14.14.290 Vandalism
Article VII Confidential Information
14.14.300 Confidential Information
Article VIII Administrative Enforcement Remedies
14.14.310 State Responsibility for Administrative Actions
14.14.320 Notification of Violation
14.14.330 Consent Orders
14.14.340 Compliance Orders
14.14.350 Hearing
14.14.360 Cease and Desist Orders
14.14.370 Emergency Suspension of Wastewater Services
14.14.380 Termination of Treatment Services (nonemergency)
Article IX Judicial Enforcement Remedies
14.14.390 Injunctive Relief
14.14.400 Civil Penalties
14.14.410 Criminal Prosecution
14.14.420 Remedies Nonexclusive
Article X Supplemental Enforcement Action
14.14.422 Water Supply Severance
14.14.424 Public Nuisances
14.14.426 Performance Bonds and Liability
14.14.428 Innovative Settlements and Supplemental Environmental Projects
Article XI Affirmative Defenses to Discharge Violations
14.14.430 General Prohibited Discharge Standards
14.14.440 Upset
14.14.450 Bypass

Article I Administration

A. This Ordinance No. 1540 sets forth uniform requirements for users of the publicly owned treatment works (POTW) operated by the city of Clarkston. It enables the city of Clarkston to comply with state and federal laws that apply to POTWs with significant industrial users, but without a discharge permit program. All actions required or authorities granted under this chapter are in accordance with the Clean Water Act
(33 USC 1251 et seq.), the Federal Pretreatment Regulations (40 CFR Part 403), and Chapter 90.48 RCW, Water Pollution Control. The objectives of this chapter are:

1. To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;

2. To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;

3. To ensure that the quality of POTW sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;

4. To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;

5. To improve the opportunity to recycle and reclaim wastewater and sludge (biosolids) from the POTW; and

6. To promote strategies, which reduce the amounts of pollution generated by users, thereby reducing the associated hazards to the POTW and receiving waters.

B. This chapter shall apply to all users of the POTW. This chapter defines certain prohibited discharges; sets forth local limits for use by state agencies in the issuance of wastewater discharge permits; authorizes monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the recovery of liquidated damages and collection of penalties.

14.14.020 Administration.

Except as otherwise provided herein, the public works director (or his/her agents, designee, or assigns) shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the public works director may be delegated by the public works director to other city of Clarkston personnel.

14.14.030 Definitions.

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

"Act" or "the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act (33 USC 1251 et seq.), as amended.

"AKART" is an acronym for "all known, available, and reasonable methods (prevention, control, and treatment) to prevent and control pollution of the waters of the state of Washington" (Chapter 90.48 RCW). AKART shall represent the most current methodology that can be reasonably required for preventing, controlling, or abating the pollutants associated with a discharge. AKART shall be applied by all users of the POTW. AKART includes best management practices and may be required by the public works director t for any discharge to the POTW.

Applicable Pretreatment Standards. For any specified pollutant: the more stringent of the city of Clarkston prohibitive standards, city of Clarkston specific pretreatment standards, Asotin County, state of Washington pretreatment standards, or applicable national categorical pretreatment standards shall apply.

"Authorized representative of the user" means:

A. If the user is a corporation:

1. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

2. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25,000,000 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

B. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively;

C. If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee;

D. The individuals described in subsections (A) through (C) of this definition may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city of Clarkston.

"Biochemical oxygen demand (BOD)" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures during five days at 20 degrees centigrade, usually expressed as a concentration (milligrams per liter (mg/l)).

"Bypass" means the intentional diversion of waste streams from any portion of a user's treatment facility.
"Categorical pretreatment standard" or "categorical standard" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act (33 USC 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405 through 471.
"Categorical user" means a user covered by one or more categorical standards as defined herein.
"City" means the city of Clarkston, a Washington municipal corporation, which has a wastewater treatment plant for which this chapter will apply. The city employs and this definition shall include a public works director and this public works director (or his/her agents, designee, or assigns) shall administer, implement, and enforce the provisions of this chapter.
"Color" means the optical density at the visual wavelength of maximum absorption, relative to distilled water. One hundred percent transmittance is equivalent to zero optical density.
"Composite sample" means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.
"Cooling water" means water used for cooling purposes generated from any use, such as air conditioning, heat exchangers, cooling or refrigeration. For purposes of this chapter, such waters are further divided into two subcategories:
A. Uncontaminated: Water to which the only pollutant added is heat, which has no direct contact with any raw material, waste, intermediate, or final product, and which does not contain a level of contaminants detectably higher than that of the intake water.
B. Contaminated: Water likely to contain levels of pollutants detectably higher than intake water. This includes water contaminated through any means, including chemicals added for water treatment, corrosion inhibition, or biocides, or by direct contact with any process materials, products, and/or wastewater.
"Department, the (Ecology)" means the Washington State Department of Ecology or authorized representatives thereof.
"Domestic user" means any person who contributes, causes, or allows the discharge of wastewater into the city of Clarkston POTW that is similar in volume and/or chemical make-up to domestic wastewater. For comparison, the public works director may assume discharges of domestic wastewater from dwelling units to be 100 gallons containing 0.2 pounds of BOD, and 0.2 pounds of TSS per capita per day, or as identified in the design of the POTW.
"Domestic wastewater" means wastewater from residential kitchens, bathrooms, and laundries, and waterborne human wastes from sanitary facilities in all other buildings, together with such groundwater infiltration or surface waters as may be present.
"Environmental Protection Agency (EPA)" means the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.
"Existing source" means any categorical user which discharges wastewater to the POTW, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.
"Existing user" means any industrial user not subject to categorical pretreatment standards which discharges wastewater to the POTW prior to the effective date of the ordinance codified in this chapter.

"Grab sample" means a sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and without consideration of time.

"Indirect discharge" or "discharge" means the introduction of pollutants into the POTW from any non domestic source regulated under Section 307(b), (c), or (d) of the Act. The discharge into the POTW is normally by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all constructed devices and appliances appurtenant thereto.

"Industrial wastewater" means water-or liquid-carried waste from any industry, manufacturing operation, trade, or business which includes any combination of process wastewater, cooling water, contaminated stormwater, contaminated leachates, or other waters such that the combined effluent differs in some way from purely domestic wastewater, or is subject to regulation under federal categorical pretreatment standards, the State Waste Discharge Permit Program, or this chapter.

"Interference" means the effect of a discharge or discharges on the POTW from one or more users which results in either: (A) inhibition or disruption of the POTW, its treatment processes or operations, or its sludge processes, use or disposal; (B) violation of any permit regulating the city of Clarkston wastewater discharge or sewerage sludge; or (C) prevention of sewage sludge use or disposal in compliance with any applicable statutory or regulatory provision or permit issued thereunder. Applicable sludge regulations shall include Section 405 of the Clean Water Act (33 USC 1345 et seq.); the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA) (42 USC 6901 et seq.); state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act (42 USC 7401 et seq.); the Toxic Substances Control Act (TSCA) (15 USC 2601 et seq.); the Marine Protection, Research, and Sanctuaries Act (33 USC et seq.); and 40 CFR Part 503.

"Maximum allowable discharge limit" means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

"Medical wastes" means isolation wastes, infectious agents, human blood and blood products or byproducts, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

"New source" means:

A. Any facility constructed after proposed categorical standards applicable to operations conducted at the facility were published, provided the facility is or may be a source of discharge to the POTW, and:

1. The building, structure, facility, or installation is constructed at a site at which no other source is located; or

2. The new construction totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

3. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site.

B. Construction of a new source as defined under this subsection has commenced if the owner or operator has either: (1) begun, or caused to begin, any placement, assembly, or installation of facilities or equipment; (2) begun, or caused to begin, significant site preparation work including removal of existing facilities necessary for the emplacement of new source facilities or equipment; or

(3) entered into a binding contractual obligation for the purchase of facilities or equipment for use in operation of a new source within a reasonable time.

"New user" means any non categorical user that plans to discharge a new source of wastewater to the city of Clarkston collection system after the effective date of the ordinance codified in this chapter. This discharge may be from either a new or an existing facility. Any person that buys an existing facility discharging non domestic wastewater will be considered an "existing user" if no significant changes in facility operation are made and wastewater characteristics are not expected to change.

"Pass through" means a condition occurring when discharges from users (singly or in combination) exit the POTW in quantities or concentrations which either: (A) cause a violation of any requirement of the city of Clarkston, NPDES, or state waste discharge permit; (B) cause an increase in the magnitude or duration of a violation; or (C) cause a violation of any water quality standard for waters of the state promulgated under state regulations including Chapter 173-201A WAC.

"Permittee" means any person or user issued a wastewater discharge permit.

"Person" means any individual, partnership, firm, company, corporation, association, joint stock company, trust, estate, any federal, state, or local governmental agency or entity, or any other entity whatsoever; or their legal representatives, agents, or assigns.

"pH" is a measure of the acidity or alkalinity of a substance, expressed in standard units. (Technically defined as the logarithm of the reciprocal of the mass of hydrogen ions in grams per liter of solution.)

"Pollutant" means any substance, either liquid, gaseous, solid, or radioactive, discharged to the POTW which, if discharged directly, would alter the chemical, physical, thermal, biological, or radiological properties of waters of the state of Washington including pH, temperature, taste, color, turbidity, oxygen demand, toxicity, or odor. This includes any discharge likely to create a nuisance or render such waters harmful, detrimental or injurious to any beneficial uses, terrestrial or aquatic life, or to public health, safety or welfare.

"Pollution prevention" means source reduction; protection of natural resources by conservation; or increased efficiency in the use of raw materials, energy, water or other resources.

"Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means (except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard).

"Pretreatment requirements" means any substantive or procedural local, state, or federal requirement related to pretreatment developed under Chapter 90.48 RCW and/or Sections 307 and 402 of the Clean Water Act.

"Pretreatment standards" or "standards" means any pollutant discharge limitations including categorical standards, state standards, and limits of Sec. 14.14.080 applicable to the discharge of
non domestic wastes to the POTW. The term shall also include the prohibited discharge standards of this chapter, WAC 173-216-060, and 40 CFR Part 403.5.

"Prohibited discharge standards" or "prohibited discharges" means absolute prohibitions against the discharge of certain substances; these prohibitions appear in Sec. 14.14.050.

"Publicly owned treatment works (POTW)" means a "treatment works," as defined by Section 212 of the Act (33 USC 1292), which is owned by the city of Clarkston. This definition includes any devices or systems used in the

collection, storage, treatment, recycling, and reclamation of sewage or industrial wastewater and any conveyances which convey wastes to a wastewater treatment plant. The term shall also mean the city of Clarkston.

"septage" means the liquid and solid material pumped from a septic tank, cesspool, or similar domestic sewage treatment system. This includes liquids and solids from domestic holding tanks, chemical toilets, campers, and trailers when these systems are cleaned or maintained.

"Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. "Severe property damage" does not mean economic loss caused by delays in production.

"Sewage" or "wastewater" means water-carried human wastes or a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, storm, or other waters as may be present.

"Sewer" means any pipe, conduit ditch, or other device used to collect and transport sewage.

"Shall" defines a mandatory requirement.

"Significant industrial user (SIU)" means:

A. A user subject to categorical pretreatment standards; or

B. A user that:

1. Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blow down wastewater); or

2. Contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

3. Is designated as such by the Department with input from the city of Clarkston on the basis that it, alone or in conjunction with other sources, has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

C. Upon a finding that a user meeting the criteria in subsection (B) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any applicable pretreatment standard or requirement, the Department may at any time, on its own initiative or in response to a petition received from a user or the city of Clarkston and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

"Significant noncompliance (SNC)" shall refer to a violation or pattern of violations of one of the following natures:

A. Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;

B. Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of all wastewater measurements taken for each pollutant parameter during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC

(1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

C. Any other discharge violation that the city of Clarkston believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of city of Clarkston personnel or the general public);

D. Any discharge of pollutants that have caused imminent endangerment to human health, welfare or to the environment, or has resulted in the city of Clarkston exercising its emergency authority to halt or prevent such a discharge;

E. Failure to meet, within 90 days after the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

F. Failure to provide, within 30 days after the due date, any required reports, including baseline monitoring reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

G. Failure to accurately report noncompliance; or

H. Any other violation(s) which the public works director determines will adversely affect the operation or implementation of the local pretreatment program.

"Slug load" means any pollutant released in a discharge at a flow rate or concentration which could violate this chapter, or any discharge of a non-routine, episodic nature such as an accidental spill or a non-customary batch discharge.

"Standard Industrial Classification (SIC) Code" means a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

"State" means the state of Washington.

"Stormwater" means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

"Total suspended solids" means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids, and which is removable by laboratory filtering.

"Toxic pollutant" means one or a combination of the pollutants listed as toxic in regulations promulgated by the EPA under Section 307 (33 USC 1317) of the Act.

"Treatment plant effluent" means the discharge from the city of Clarkston POTW.

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with applicable pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

"User" or "industrial user" means any non domestic source of wastewater discharged to the POTW. This excludes domestic users as defined herein.

Wastewater. See "sewage."

"Wastewater discharge permit (industrial wastewater discharge permit, discharge permit)" means an authorization or equivalent control document issued by the Department to users discharging wastewater to the POTW. The permit may contain appropriate pretreatment standards and requirements as set forth in this chapter.

"Wastewater treatment plant" or "treatment plant" means that portion of the POTW designed to provide treatment of sewage as defined herein.

Public works director. The person designated by the city of Clarkston to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this chapter, and specifically including his/her duly authorized representatives, agents, designees, assigns, or an inspector, shall administer, implement, and enforce the provisions of this chapter.

14.14.040 Abbreviations.

The following abbreviations shall have the designated meanings:

A. ASPP – accidental spill prevention plan.

B. AKART – all known, available, and reasonable means of prevention, control, and treatment (see CMC 13.48.030, Definitions).

C. BOD – biochemical oxygen demand.

D. CFR – Code of Federal Regulations.

E. COD – chemical oxygen demand.

F. EPA – U.S. Environmental Protection Agency.

G. GPD – gallons per day.

H. l – liter.

I. LEL – lower explosive limit.

J. mg – milligrams.

K. mg/l – milligrams per liter.

L. NPDES – the National Pollutant Discharge Elimination System as defined under Section 402 of the Clean Water Act.

M. O&M – operation and maintenance.

N. POTW – publicly owned treatment works.

O. RCRA – Resource Conservation and Recovery Act (42 USC 6901, et seq.).

P. SIC – Standard Industrial Classifications.

Q. SIU – significant industrial user.

R. SWDA – Solid Waste Disposal Act (42 USC 6901, et seq.).

S. TSS – total suspended solids.

T. USC – United States Code.

Note: With regards to abbreviations above, the use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

Article II. General Requirements

14.14.050 Prohibited discharge standards.

A. General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements (40 CFR 403.5(a) and WAC 173-216-060(2)(b)(i)).

B. Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants in any form (solid, liquid, or gaseous):

1. Any pollutant which either alone or by interaction may create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21 (40 CFR 403.5(b)(1)), or are capable of creating a public nuisance (WAC 173-216-060(2)(b)(ii)). This includes waste streams sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair. At no time shall a waste stream cause two successive readings on an explosion meter to be more than five percent nor any single

reading over 10 percent of the lower explosive limit (LEL) of the meter at any point in the collection system or treatment works;

2. Any pollutant which will cause corrosive structural damage to the POTW, but in no case discharges with a pH less than 5.0 or more than 11.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the POTW, unless the system is specifically designed to accommodate such discharge and the discharge is authorized by an applicable wastewater discharge permit (40 CFR 403.5(b)(2) and WAC 173216-060(2)(b)(iv));

3. Any solid or viscous substances including fats, oils, and greases in amounts which may cause obstruction to the flow in a POTW or other interference with the operation of the POTW (40 CFR 403.5(b)(3) and WAC 173-216-060(2)(b)(iii));

4. Any discharge of pollutants, including oxygen-demanding pollutants (BOD, etc.), released at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, is sufficient to cause interference with the POTW (40 CFR 403.5(b)(4) and WAC 173216-060(2)(b)(vi));

5. Any waste stream having a temperature which will inhibit biological activity in the treatment plant resulting in interference, or cause worker health or safety problems in the collection system. In no case shall wastewater be discharged at a temperature which causes the temperature of the influent to the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Celsius) unless the system is specifically designed to accommodate such a discharge, and the discharge is authorized by an applicable wastewater discharge permit (40 CFR 403.5(b)(5) and WAC 173-216-060(2)(b)(v));

6. Any petroleum oil, non biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through (40 CFR 403.5(b)(6) and WAC 173-216-060(2)(b) (i));

7. Any pollutants which result in the presence of toxic gases, vapors, or fumes within any portion of the POTW in a quantity that may cause acute worker health and safety problems (40 CFR 403.5(b)(7) and WAC 173-216-060(b)(ii));

8. Any trucked or hauled wastes, except at discharge points designated by the city of Clarkston and in compliance with all applicable city of Clarkston requirements and during specified hours (40 CFR 403.5(b)(8));

9. Any noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair (WAC 173-216-060(2)(b)(ii));

10. Any of the following discharges unless approved by the Department under extraordinary circumstances such as the lack of direct discharge alternatives due to combined sewer service or need to augment sewage flows due to septic conditions (WAC 173-216-060(2)(b)(vii)):

Non contact cooling water in significant volumes;

Stormwater, and other direct inflow sources; or

Wastewaters significantly affecting system hydraulic loading, which do not require treatment or would not be afforded a significant degree of treatment by the POTW;

11. Any dangerous or hazardous wastes as defined in Chapter 173-303 WAC, as amended, except as allowed in compliance with that regulation (WAC 173-216-060(1) and 40 CFR Part 261);

12. Any substance which will cause the POTW to violate its NPDES, state waste discharge or other disposal system permits or causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;

13. Any substance which may cause the POTW's effluent or treatment residues, sludge, or scum to be unsuitable for reclamation and reuse or would interfere with the reclamation process or cause the POTW to be in

noncompliance with sludge use or disposal criteria, guidelines or regulations developed pursuant to the federal, state, or local statutes or regulations applicable to the sludge management method being used;

14. Any discharge which imparts color which cannot be removed by the POTW's treatment process such as dye wastes and vegetable tanning solutions, which consequently impart color to the treatment plant's effluent, thereby violating the city of Clarkston NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity in the receiving waters by more than 10 percent from the seasonably established norm for aquatic life;

15. Any discharge containing radioactive wastes or isotopes except as specifically approved by public works director in compliance with applicable state or federal regulations including WAC 246-221-190, "Disposal by Release into Sanitary Sewerage Systems"; and meeting the concentration limits of WAC 246-221-290, Appendix A, Table I, Column 2; and WAC 246-221-300, Appendix B;

16. Any sludge, screenings, or other residues from the pretreatment of industrial wastes or from industrial processes;

17. Any medical wastes, except as specifically authorized by the public works director;

18. Any detergents, surface-active agents, or other substances in amounts which may cause excessive foaming in the POTW;

19. Any incompatible substance such as: grease, animal guts or tissues, paunch manure, bones, hair, hides or fleshing, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes, or any other organic or inorganic matter greater than one-half inch in any dimension;

20. Persistent pesticides and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA);

21. Any wastewater which, in the opinion of the public works director, can cause harm either to the sewers, sewage treatment process, or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a nuisance, unless allowed under a legal and binding agreement prepared by the public works director and city of Clarkston's attorney (except that no waiver may be given to any categorical pretreatment standard).

C. Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

14.14.060 Federal categorical pretreatment standards.

National categorical pretreatment standards as adopted and hereafter amended by the EPA pursuant to the Act shall be met by all users in the regulated industrial categories. These standards, found in 40 CFR Chapter I, Subchapter N, Parts 405 through 471, are hereby incorporated by reference.

14.14.070 State requirements.

A. State requirements and limitations on discharges to the POTW, as incorporated into Washington State law by Chapter 90.48 RCW and implemented in Chapter 173-201A WAC, Chapter 173-216 WAC, and Chapter 173-240 WAC, shall be met by all users which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations, or those in this chapter or other applicable ordinanc-

es. This includes the requirement to meet AKART as defined herein whenever applicable and more stringent than the limits of Sec. 14.14.080, and to comply with the requirements of Sec. 14.14.170.

B. Any user determined by the city of Clarkston to qualify as a significant industrial user shall file an application for a state waste discharge permit with the Department in accordance with the requirements of WAC 173-216-070. Proof of acceptance of the application and payment of permit fees shall be kept at the user's facilities, and produced upon request by the city of Clarkston. Failure to submit the application or rejection of the application by the Department may be considered sufficient grounds to terminate or refuse to provide sewer service.

14.14.080 Local limits.

A. The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following daily maximum allowable discharge limits: These limits may be determined on a case-by-case basis after analysis by the city and the Department of Ecology.

1. 0.2 mg/l arsenic.
2. 0.2 mg/l cadmium.
3. 1 mg/l chromium.
4. 0.5 mg/l copper.
5. 0.64 mg/l cyanide.
6. 0.4 mg/l lead.
7. 0.05 mg/l mercury.
8. 0.2 mg/l molybdenum.
9. 0.5 mg/l nickel.
10. 0.2 mg/l selenium.
11. 0.2 mg/l silver.
12. 1.0 mg/l zinc.
13. 5 mg/l oil and grease (petroleum or mineral oil products).
14. 100 mg/l oil and grease (animal and vegetable based).
15. 75 mg/l oil and grease (total of petroleum and vegetable based).
16. 0.2 mg/l free cyanide.

B. The above limits apply to the end of any process or combination of processes identified to have a potential discharge of this pollutant. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The Department may impose mass limitations in addition to or in place of the concentration-based limitations above. Where a user is subject to a categorical pretreatment standard and a local limit for a given pollutant, the more stringent limit or applicable pretreatment standard shall apply.

14.14.085 City of Clarkston's right of revision.

The city of Clarkston reserves the right to establish more stringent standards or requirements on discharges to the POTW.

14.14.095 Excess Strength Charges

For Industrial waste or other discharges exceeding the BOD and / or suspended solids limits defined in Section XX, the following formula shall be used to determine the ERU equivalency of the waste flow. For purposes of calculation, the minimum industrial BOD and / or suspended solids concentration shall be three hundred mg/l.

(1) ERU Equivalent for high strength waste shall be the sum of the following:
   a) Flow Calculation (P-Flow) x industrial flow in cu. ft.

900 cu.ft.

b) BOD Calculation (P-BOD) x industrial BOD in mg./l
300 mg./l

c) Suspended Solids (SS) Calculation (P-SS) x industrial SS in mg./l
300mg./l

(2) Explanation of Terms:

a) (P-Flow)
Wastewater treatment costs associated with flow quantity
Total cost of wastewater treatment

b) (P-BOD)
Wastewater treatment costs associated with BOD
Total cost of wastewater treatment

c) (P-SS)
Wastewater treatment costs associated with SS
Total cost of wastewater treatment

d) ERU: (Equivalent Residential Unit) equals nine hundred cubic feet of flow containing no more than three hundred mg/l of suspended solids and no more than three hundred mg/l of BOD.

14.14.100 Special agreement.

A. The city of Clarkston may enter into agreements with users to accept pollutants compatible with the treatment system at concentrations greater than those typical of domestic wastewater. Users with BOD or TSS levels higher than 300 mg/l must have such an agreement before commencing discharge. Within such agreements, the city of Clarkston may establish terms of the user's discharge to the POTW including maximum flow rates, and concentrations. The city of Clarkston may also establish fees to recover costs associated with treating such wastes and monitoring schedules in such agreements. In no case will a special agreement waive compliance with a state or federal pretreatment standard or requirement including categorical standards.

B. Users discharging or intending to discharge pollutants other than BOD and TSS, and claiming compatibility, must prove to the satisfaction of the public works director that such pollutants
are compatible with the POTW. The public works director may require any claim of compatibility to be endorsed by the Department.

14.14.110 Dilution.

No user shall ever increase the use of water, nor combine separate waste streams, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with an applicable pretreatment standard or requirement unless expressly authorized by an applicable pretreatment standard or requirement. The public works director may request the Department impose mass limitations on users, which he/she believes may be using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

14.14.120 Pretreatment facilities.

A. Users shall procure and properly install, operate, and maintain the wastewater facilities, which, combined with appropriate practices, are necessary to achieve AKART as defined herein. Such pretreatment facilities shall be designed to achieve compliance with all applicable pretreatment standards and requirements within the time limitations specified by the EPA or the state, whichever is more stringent. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Department for review and approval in accordance with the procedures of Chapter 173-240 WAC, and shall be disclosed to the city of Clarkston before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying its facility as necessary to produce a discharge acceptable to the city of Clarkston and/or the Department and meet discharge limitations under the provisions of this chapter. Such facilities shall be provided, operated, and maintained at the user's expense.

B. Users shall comply with approved engineering reports, plans and specifications, and operations and maintenance manuals, and shall modify such documents to reflect any proposed modifications of industrial wastewater (pretreatment) facilities. Users shall submit proposals to modify pretreatment facilities to the Department before implementation in accordance with Chapter 173-240 WAC. Users shall submit a copy of such revised plans and the Department's acceptance to the public works director before implementing changes to approved pretreatment facilities. The water/sewer superintendent may audit the compliance of any user, and require changes in operating procedures deemed necessary by the public works director , to ensure continued compliance with applicable pretreatment standards and requirements.

14.14.130 Deadline for compliance with applicable pretreatment requirements.

A. Existing sources (as defined herein) to which one or more categorical pretreatment standard is applicable shall comply with all applicable standards within three years of the date the standard is effective unless the pretreatment standard includes a more stringent compliance schedule. The Department shall establish a final compliance deadline date for any existing user (as defined herein) or any categorical user when the local limits for said user are more restrictive than EPA's categorical pretreatment standards.

B. New sources and new users as defined herein shall comply with applicable pretreatment standards within the shortest feasible time. In no case shall such time exceed 90 days from beginning a discharge. Prior to commencing discharge, such users shall have all pollution control equipment required to meet applicable pretreatment standards installed and in proper operation.

14.14.140 Additional pretreatment measures.

A. Whenever deemed necessary, the public works director may require users to comply with such conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter. Such measures may include: restricting a discharge during peak flow periods; designating that certain wastewater be discharged only into specific sewers; requiring relocation and/or consolidation of discharge points; and/or separating sewage waste streams from industrial waste streams.

B. Grease, oil, and sand interceptors shall be provided when, in the opinion of the water/sewer superintendent, they are necessary for the proper handling of wastewater containing grease and oil in excess of the limits in Sec. 14.14.080, or excessive amounts of sand or other settleable solids. Such interceptors shall not be required for domestic users. All interceptors shall be of type and capacity approved by the public works director and shall be located to be easily accessible for cleaning and inspection. Each user shall maintain, inspect, and clean required interceptors on a schedule that ensures they capture the intended pollutants, and prevent their

reintroduction into the storm or sanitary sewer systems. Users shall bear all expenses related to installation, maintenance, and repair of interceptors, and the proper disposal of removed materials.

C. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

D. The public works director may require a user discharging more than 10,000 gallons per day or 10 percent of the average daily flow in the POTW, whichever is less, to install and maintain, on its property and at its expense, a suitable storage and flow-control facility to ensure equalization of flow over a 24-hour period. The facility shall have a capacity for at least 50 percent of the daily wastewater discharge volume and shall be equipped with alarms and a rate of discharge controller. The public works director shall direct the control of discharges. The city of Clarkston may require the user to obtain a wastewater discharge permit solely for flow equalization, or to develop a slug discharge control plan.

14.14.150 Accidental spill/slug discharge control plans.

A. The public works director may require any user to install, properly operate, and maintain, at its own expense, facilities to prevent sludge loads or accidental discharges of pollutants to the POTW. The public works director may require users to produce and/or implement spill plans developed in compliance with applicable OSHA, health, fire, and Department regulations applicable to discharges to POTWs. When such plans are required by the public works director they shall contain at least the following elements:

1. A description of all wastewater discharge practices, including non-routine batch discharges;
2. A description of any and all stored chemicals;
3. Procedures for immediately notifying the public works director of any accidental or sludge load discharges, with procedures for follow-up written notification within five days; and
4. Procedures to prevent adverse impact from any accidental or sludge load discharge, including, but not limited to, the following: inspection and maintenance of chemical storage areas; handling and transfer of materials; loading and unloading operations; control of run-off; worker training; construction of containment structures or equipment; and measures for
emergency response.

B. Users shall verbally notify the public works director or the wastewater treatment plant supervisor immediately upon the occurrence of a sludge load or accidental discharge of substances regulated by this chapter and take immediate actions to correct the situation. Such notification shall include the following information: (1) the location of discharge, (2) the date and time thereof, (3) the type of waste, (4) the waste concentration and volume, and (5) the corrective actions taken and planned. The user shall follow-up with a written notification to the water/sewer superintendent containing the same information within seven days following the discharge.

C. Any user who discharges an accidental discharge or sludge load shall be liable for: (1) recovery of any resultant expenses, losses, and damages to the POTW; (2) recovery of any fines or settlements levied upon the city of Clarkston by any government agency or court of competent jurisdiction attributable to the discharge; and (3) applicable fines and penalties assessed upon the user by the city of Clarkston for noncompliance with this chapter.

14.14.155 Acceptance of liquid hauled wastes. (new)

The public works director shall exercise absolute discretion in whether to accept any load of liquid hauled wastes. In determining whether to accept a load, the public works director or his/her agents or assigns must collect samples of each hauled load and/or require the hauler to provide a wastewater analysis of any load prior to discharge.

A. Fees for discharge of liquid hauled wastes will be established as part of the user fee system as authorized in this chapter.

Article III. Wastewater Discharge Permit Requirements

14.14.160 Requirements to complete industrial user surveys.

The public works director shall periodically notify new, existing, and potential users of the requirement to complete an industrial user survey form. Upon notification, users shall fully and accurately complete the survey form, and return the completed form to the public works director within 30 days of receipt. Each user shall maintain a copy of the latest completed survey form at their place of business. Failure to fully or accurately complete a survey form or to maintain the latest survey form on the premises where a wastewater discharge is occurring shall be a violation of this chapter.

14.14.170 Wastewater discharge permitting – Requirements for discharge.

A. No significant industrial user (SIU) shall discharge wastewater into the POTW without first obtaining a statement from the public works director that the POTW has the hydraulic and/or loading capacity to accept the discharge. Each SIU must also comply with the state requirements listed in Sec. 14.14.070, and in particular, apply for and receive a wastewater discharge permit from the Department, which authorizes the discharge. The public works director may require proof of application as a condition of new or continued discharge. Obtaining a wastewater discharge permit does not relieve an SIU of his/her obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local regulation including the requirement for applying AKART.

B. The public works director may require other users, including liquid waste haulers, to apply for, and obtain, applicable wastewater discharge permits as necessary to carry out the purposes of this chapter.

C. The water/sewer superintendent may also establish, and require users by letter, permit, or rule, to implement those best management practices determined by the public works director to be representative of AKART, or to discontinue use of any substance for which an effective substitute is available which will either: (1) lessen the potential for violating this chapter or any water quality standard, or (2) may represent a significant decrease either singly, or in combination with other similar users, in the toxicity of pollutant loadings to the POTW.

D. The city of Clarkston encourages all users seeking authorization to discharge to the POTW to complete a pollution prevention review before submitting their request to discharge to the public works director. The city of Clarkston may require users who must submit a pollution prevention plan under the state's Hazardous Waste Reduction Act to provide this plan to the public works director as a condition of initial or continued discharge.

E. Whenever a moratorium has been imposed upon the POTW preventing the addition of new users, the public works director may require any or all users of the POTW to develop plans to reduce their discharges through

water reuse, recycling, reclamation or other applicable management practices, and to implement such plans or other measures deemed appropriate by the public works director to preserve the availability of public sewage treatment services.

14.14.180 Permit requirements for dangerous waste constituents.

Users discharging a waste stream containing dangerous wastes as defined in Chapter 173-303 WAC and/or 40 CFR (listed, characteristic, or criteria wastes) are required to comply with the following permit provisions:

A. Obtain a written authorization to discharge the waste from the public works director, and either obtain specific authorization to discharge the waste in a state waste discharge permit issued by the Department, or accurately describe the waste stream in a temporary permit obtained pursuant to RCW 90.48.165. The description shall include at least:

1. The name of the dangerous waste as set forth in Chapter 173-303 WAC, and the dangerous waste number;
2. The mass of each constituent expected to be discharged;
3. The type of discharge (continuous, batch, or other).

B. Compliance shall be obtained on the following schedule:

1. Before discharge for new users;

2. Within 30 days after becoming aware of a discharge of dangerous wastes to the POTW for existing users; and

3. Within 90 days after final rules identifying additional dangerous wastes or new characteristics or criteria of dangerous waste are published for users discharging a newly listed dangerous waste.

Article IV. Reporting Requirements

14.14.190 Disclosure of records.

Each user shall have available at the location of discharge all records and reports required by this chapter, any applicable state and federal regulation, or any permit or order issued thereunder. Each user shall make such records available for review by the public works director during business hours, when activities are being conducted at the facility, and at all reasonable times. Failure to comply with this provision is a violation of this chapter.

14.14.200 Reports from unpermitted users.

All users not obligated to obtain a wastewater discharge permit from the Department shall provide appropriate reports to the city of Clarkston as the public works director may require. The public works director shall determine the schedule and format of such reports, and the pollutant properties, flow rates, and other pertinent information to be reported.

14.14.210 Reporting requirements for dangerous waste constituents.

Any user discharging 100 kilograms or more of dangerous waste in any calendar month to the POTW, where the pollutants are not reported through self-monitoring under an applicable state waste discharge permit, shall report to the public works director and the Department the following information to the extent that it is known or readily available to the user:

A. The name of the dangerous waste as set forth in Chapter 173-303 WAC, and the dangerous waste number;

B. The specific hazardous constituents;
C. The estimated mass and concentration of such constituents in waste streams discharged during the calendar month;
D. The type of discharge (continuous, batch, or other); and
E. The estimated mass of dangerous waste constituents in waste streams expected to be discharged in the next 12 months.

14.14.220 Record keeping.

A. Users subject to this chapter shall retain, and make readily available for inspection and copying, all records of information maintained to comply with this chapter, a state waste discharge permit, or approved operations and maintenance procedures (inspections, lubrication, repair, etc.). Users subject to monitoring requirements shall keep records of all monitoring activities, whether required or voluntary.
B. Monitoring records shall include: the date, exact place, method, and time of sampling; the name of the person(s) taking the samples; the dates the analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses.
C. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or POTW, or where the public works director has specifically notified the user that a longer retention period is required.

Article V. Sampling and Analytical Requirements

14.14.230 Sampling requirements for users.

A. Applicable Requirements. Users which discharge to the POTW shall abide by all applicable wastewater monitoring requirements of this chapter, any applicable order, and any state or federal regulation or permit, including a state waste discharge or NPDES permit. The public works director may require self-monitoring as a requirement of discharge to the POTW, or may conduct city of Clarkston monitoring of any discharge to the POTW.
B. Categorical User Sampling Requirements. Categorical users with combined discharges shall measure flows and pollutant concentrations necessary to allow use of the combined waste stream formula of 40 CFR 403.6(e). Where feasible, such users shall sample immediately downstream from any pretreatment facilities, unless the Department determines end-of-pipe monitoring to be more stringent or applicable.
C. Noncategorical Users. All other users, where required to sample, shall measure the flows and pollutant concentrations necessary to evaluate compliance with pretreatment standards and requirements.
D. Data Required. Users which analyze wastewater samples shall record, and report with the sampling results, the information required bySec.14.17.220B. All required reports shall also certify that the samples are representative of normal work cycles and wastewater discharges from the user. Whenever a user analyzes wastewater samples for any regulated pollutant more frequently than required, using methodologies in 40 CFR Part 136, the results of such analyses shall be submitted with the next required wastewater discharge report. Reports containing incomplete information shall not demonstrate compliance with this chapter or a wastewater discharge permit.

14.14.240 Analytical requirements.

Users shall ensure that all wastewater analyses required to be reported with the exception of flow, temperature, settleable solids, conductivity, and pH shall be performed by a laboratory registered or accredited under the provisions of Chapter 173-50 WAC. Sampling and analysis techniques used in collection, preservation, and analysis shall be in accordance with 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. Where 40 CFR Part 136 does not contain applicable sampling or analytical techniques for the pollutant in question, sampling and analyses shall be performed in accordance with procedures approved by the EPA or the Department.

14.14.250 City of Clarkston monitoring of wastewater.

The city of Clarkston shall follow the procedures required of users described in sections 14.14.220 and 14.14.240 whenever conducting wastewater sampling of any industrial user, or when such sampling is conducted to ensure compliance with this chapter and applicable pretreatment standards and requirements.

Article VI. Compliance Monitoring

14.14.260 Right of entry for inspection and sampling.

A. The public works director shall have the right to enter the facilities of any user to ascertain whether the purpose of this chapter, and any wastewater discharge permit or order issued under this chapter or by the Department, is being met and whether the user is complying with all requirements thereof.

B. The public works director shall have the right to set up on any user's property such devices as are necessary to conduct sampling, compliance monitoring, and/or metering of a user's operations. It shall be the policy of the public works director inform the Department of such activities where users hold a state waste discharge permit in order to make the results of such sampling available to the Department.

C. Users shall allow the public works director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

D. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the public works director, his or her agents or assigns, and representatives of state and federal authority will be allowed to enter without delay for the purposes of performing their respective duties.

E. Any temporary or permanent obstruction to safe, ready, and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the public works director, or his/her agents or assigns, and shall not be replaced. The costs of clearing such access shall be borne by the user.

F. Unreasonable delays or failure to allow the public works director or his/her agents or assigns access to any area to perform functions authorized under this chapter shall be grounds for termination of wastewater treatment services, and enforcement as authorized by this chapter.

14.14.270 Monitoring facilities.

A. Any user notified by the Department or the city of Clarkston that monitoring facilities are required shall provide and operate at its own expense a monitoring facility to allow proper inspection, sampling, and flow measurements of each sewer discharge to the POTW. Monitoring facilities shall be situated on the user's premises,

unless this would be impractical or cause undue hardship on the user. In such cases, the city of Clarkston may allow the user to construct the facility in the public street or sidewalk area, providing it will not be obstructed by landscaping or parked vehicles.

B. When the public works director or the Department determine it is appropriate, they may require a user to construct and maintain monitoring facilities at other locations (for example, at the end of a manufacturing line or wastewater treatment system).

C. There shall be ample room in or near such monitoring facilities to allow accurate sampling and preparation of samples for analysis. The user shall maintain the facility, sampling, and measuring equipment at all times in a safe and proper operating condition at his/her own expense.

D. All wastewater monitoring facilities shall be constructed and maintained in accordance with all applicable construction standards and specifications. All devices used to measure wastewater flow and quality shall be regularly calibrated, but no less frequently than annually, to ensure their accuracy. Calibration records shall be available for inspection by the water/sewer superintendent.

14.14.280 Search warrants.

A. If the public works director or authorized inspector acting as his/her agent has been refused access to a building, structure or property, or any part thereof, then the public works director and/or city police officer may seek issuance of a search and/or seizure warrant from the Asotin County superior court when:

1. There is probable cause to believe that there may be a violation of this chapter;

2. There is a need to inspect as part of a routine inspection program of the city of Clarkston and verify compliance with this chapter, an order issued hereunder, or any wastewater discharge permit; or

3. To protect the overall public health, safety and welfare of the community. The public works director and/or a uniformed police officer of the city of Clarkston shall serve such warrant during reasonable hours.

B. In the event the public works director has reason to believe a situation represents an imminent threat to public health and safety, and where entry has been denied or the area is inaccessible, the public works director and/or a uniformed police officer may enter, before a requested warrant has been produced, in order to determine if the suspected situation exists, and if so, to take such actions necessary to protect the public.

14.14.290 Vandalism.

No person shall willfully or negligently break, damage, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set forth in Washington State criminal law and/or in this chapter.

Article VII. Confidential Information

14.14.300 Confidential information.

A. Records kept by the city of Clarkston with respect to the nature and frequency of discharges from any user shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the city of Clarkston, that the release of such information would divulge information, processes or methods of production entitled to confidentiality under the law.

B. Users shall clearly mark "confidential" on all areas of correspondence they wish to be held confidential from the public, and feel is afforded such protection. The city of Clarkston shall determine if such information is legally afforded this protection under the law upon receipt of a request for such information. Only information marked "confidential" and determined by the city to legally qualify as such shall be withheld from the public.
C. No correspondence claimed as "confidential" shall be withheld from any state or federal agency responsible for oversight of the city's NPDES permit or authority to implement the NPDES, or state or federal pretreatment programs. Wastewater constituents and characteristics, and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

Article VIII. Administrative Enforcement Remedies

14.14.310 State responsibility for administrative actions.

The Department is charged with permitting and regulating significant industrial users (SIUs) discharging to the city of Clarkston POTW. Except for emergency actions, it shall be the policy of the public works director to coordinate actions in regard to control of such users with the Department until such time as a local pretreatment program for the city of Clarkston may be authorized by the state. Failure to conduct such coordination, however, shall not invalidate any action of the city of Clarkston authorized by this chapter.

14.14.320 Notification of violation.

A. Whenever the public works director finds that any user has violated or is continuing to violate any provision of this chapter, or an order issued hereunder, the public works director may serve upon such user written notice of the violation.
B. Within 10 days of receipt of such notice of violation, the user shall submit to the public works director an explanation of the violation and a plan to satisfactorily correct and prevent the reoccurrence of such violation(s). The plan shall include specific actions the user will take, and the
completion dates of each. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation.
C. Nothing in this section shall limit the authority of the city of Clarkston to take any action, including emergency actions or any other enforcement action without first issuing a notice of violation.

14.14.330 Consent orders.

A. The public works director and the city attorney are hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such consent orders shall include specific action to be taken by the user to correct the noncompliance within a time schedule also specified by the consent order.
B. Compliance schedules, when included in consent orders, may not extend the compliance date beyond any applicable state or federal deadlines. Consent orders shall have the same force and effect as compliance orders issued pursuant to Sec. 14.14.340 and shall be judicially enforceable. Failure to comply with any terms or requirements of a consent order by the user shall be an additional and independent basis for termination of wastewater services, including collection and treatment, or for any other enforcement action authorized under this chapter and deemed appropriate by the public works director.

14.14.340 **Compliance orders.**

A. Whenever the public works director finds that a user has violated, or continues to violate, any provision of this chapter, or order issued hereunder, the public works director may issue a compliance order to the user responsible for the violation. This order shall direct that adequate pretreatment facilities, devices, or other related appurtenances be installed and properly operated and maintained. The order shall specify that wastewater services, including collection and treatment, shall be discontinued and/or applicable penalties imposed unless, following a specified time period, the directed actions are taken.

B. Compliance orders may also contain such other requirements as might be reasonably necessary and appropriate to address the violation or noncompliance, including, but not limited to, the installation of pretreatment technology, additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the POTW. A compliance order may not extend the deadline for compliance beyond any applicable state or federal deadlines, nor does a compliance order release the user from liability from any past, present, or continuing violation(s). Issuance of a compliance order shall not be a prerequisite to taking any other action against the user.

C. Failure to comply with any terms or requirements of a compliance order by a user shall be an additional and independent basis for termination of wastewater services, including collection and treatment, or any other enforcement action authorized under this chapter and deemed appropriate by the public works director.

14.14.350 Hearing.

A. A user shall be afforded the opportunity to a hearing to contest the city of Colville's determination to suspend services, impose penalties, recover costs, or establish compliance schedules. A user shall also have the right to a hearing prior to termination of a user's wastewater collection and treatment services.

B. Notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served on an authorized representative of the user (return receipt requested) at least 15 days prior to the scheduled hearing date.

C. The hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

14.14.360 Cease and desist orders.

A. The public works director may issue a cease and desist order upon finding a user has or is violating either: this chapter, a wastewater discharge permit or order issued by the Department, or any other pretreatment standard or requirement. The decision to issue a cease and desist order shall consider the likelihood that a user's violations in conjunction with other discharges could cause a threat to the POTW, POTW workers, or the public, or cause pass through, interference, or a violation of the POTWs NPDES permit. The order issued by the public works director and prepared by the city attorney will direct the user to cease and desist all such violations and to:

1. Immediately cease such actions or discharges as described;

2. Comply with all applicable pretreatment standards and requirements;

3. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

B. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

14.14.370 Emergency suspension of wastewater services.

A. The public works director may immediately suspend wastewater services, including collection and treatment, after informal notice to the user, if it appears to the city of Clarkston that such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to either the environment, normal operation of the POTW, or the health or welfare of any person or the general public.

B. Any user notified of a suspension of its wastewater discharge shall immediately cease all such discharges. In the event of a user's failure to immediately comply voluntarily with the suspension order, the public works director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or the danger to the public. The public works director may allow the user to
recommence its discharge when the user has demonstrated that the period of endangerment has passed, unless the termination proceedings in Sec. 14.14.380 are initiated against the user.

C. It shall be unlawful for any person to prevent or attempt to prevent the public works director and/or city of Clarkston from terminating wastewater collection and treatment services in an emergency situation, by barring entry, by physically interfering with city of Clarkston employees or contractors, or by any other means.

D. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the water/sewer superintendent prior to the date of any hearing authorized by this chapter.

E. Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

14.14.380 Termination of treatment services (nonemergency).

A. The public works director shall have authority to terminate wastewater services, including collection and treatment, through the issuance of a termination order to any user upon determining that such user has:

1. Refused access allowed by this chapter thereby preventing the implementation of any purpose of this chapter;

2. Violated any provision of this chapter including the discharge prohibitions and standards of Article II of this chapter; or

3. Violated any lawful order of the city of Clarkston issued with respect to this chapter.

B. For users holding permits to discharge to the city of Clarkston POTW, violation of the following conditions is also grounds for terminating discharge services:

1. Failure to accurately report wastewater constituents or characteristics;

2. Failure to report significant changes in operations or wastewater constituents or characteristics; or

3. Violation of any term or condition of the user's waste discharge permit.

C. Issuance of a termination order by the city of Clarkston shall not be a bar to, or a prerequisite for, taking any other action against the user.

Article IX. Judicial Enforcement Remedies

14.14.390 Injunctive relief.

When the public works director finds that a user has violated (or continues to violate) any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, he/she may petition the AsotinCounty superior court through the city of Clarkston attorney for the issuance of a temporary or permanent injunction, as appropriate. Such injunction shall restrain or compel specific compliance with an applicable wastewater discharge permit, order, or other requirement imposed by this chapter on activities of the user. The city of Clarkston may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

14.14.400 Civil penalties.

A. A user which has violated or continues to violate any provision of this chapter, an order issued hereunder, a wastewater discharge permit, or any other pretreatment standard or requirement not reserved by a permit by the Department shall be liable to the city of Clarkston for a maximum civil penalty of $10,000 per violation. Each day upon which a violation occurs or continues shall constitute a separate violation. In the case of noncompliance with a monthly or other long-term average discharge limits, penalties shall accrue for each day during the period of such noncompliance.

B. In addition to the penalty amounts assessable under subsection (A) of this section, the public works director may recover reasonable attorneys' fees, court costs, and other expenses associated with compliance and enforcement activities authorized under this chapter. This shall include recovery of costs for sampling and monitoring, and the cost of any actual damages incurred by the city of Clarkston including penalties for noncompliance with the city of Clarkston NPDES permit to the extent attributable to the user.

C. The city of Clarkston shall petition the AsotinCounty superior court to impose, assess, and recover such sums. In recommending the amount of civil liability, the public works director shall consider all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires, and shall present this analysis as evidence in support of the recommended penalty.

D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

14.14.410 Criminal prosecution.

A. A user which willfully or negligently violates any provision of this chapter, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a gross misdemeanor, punishable by a fine of not more than $5,000 per violation, per day, plus costs of prosecution or imprisonment in the county jail not to exceed one year, or by both fine and imprisonment, at the discretion of the Asotin County district court.

B. The above provision applies to any user which knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter.

C. Where willful or negligent introduction of a substance into the POTW causes personal injury or property damage, this action shall be in addition to any other civil or criminal action for personal injury or property damage available under the law.

14.14.420 Remedies nonexclusive.

The provisions in Articles VIII through XI of this chapter are not exclusive remedies. The city of Clarkston reserves the right to take any, all, or any combination of these actions concurrently or sequentially against a noncompliant user or to take other actions as warranted by the circumstances.

Article X. Supplemental Enforcement Action

14.14.422 Water supply severance.

Whenever a user has violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

14.14.424 Public nuisances.

A violation of any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the public works director. Any person(s) creating a public nuisance shall be subject to the provisions of Chapter 10.56 CMC, governing such nuisances, including reimbursing the city of Clarkston for any costs incurred in removing, abating, or remedying said nuisance.

14.14.426 Performance bonds and liability

The public works director may decline to reinstate wastewater collection and treatment service to any user whose wastewater services were suspended or terminated under the provisions of this chapter, unless such user, at the sole discretion of the public works director, either: (A) first files with the city of Clarkston a satisfactory bond, payable to the city of Clarkston, in a sum not to exceed a value determined by the public works director to achieve consistent compliance; or (B) first submits proof that the user has obtained financial assurances sufficient to restore or repair POTW damage caused by its discharge.

14.14.428 Innovative settlements and supplemental environmental projects.

A. In any enforcement action allowed under this chapter, the public works director may recommend, and the city of Clarkston may agree, to set aside all or portions of the recommended penalty amount in favor of requiring completion of a project of environmental benefit to the POTW of equal or greater value than the proposed penalty. Such projects must be proposed or agreed to in writing by the user.

B. In recommending this option, the public works director shall consider all relevant circumstances, including, but not limited to, the following criteria: (1) the net environmental benefit, (2) the ability of the project to help achieve or ensure compliance, (3) the willingness of the party to change the circumstances that led to the noncompliance, and (4) the responsible party's technical and financial ability to successfully complete the project.

C. In enforcement actions taken by the Department, the city of Clarkston may make written recommendations either for, or against, an innovative settlement agreement with a noncompliant user based on the above criteria.

Article XI. Affirmative Defenses to Discharge Violations

14.14.430 General prohibited discharge standards.

A. The city of Clarkston may allow an affirmative defense to an enforcement action brought against a user for noncompliance with the general and specific prohibitions in Sec. 14.14.050. An affirmative defense requires the user to prove to the satisfaction of the public works director that:

1. The user did not know or have reason to know that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference;

2. The discharge did not change substantially in nature or constituents from the industrial user's prior discharge when the city of Clarkston was regularly in compliance with its NPDES permit; and

3. In the case of interference, the user was in compliance with applicable sludge use or disposal requirements.

B. This defense does not relieve the user from responsibility for enforcement to recover costs as provided under Chapter 10.56.

14.14.440 Upset.

A. Users shall control production or all discharges to the extent necessary to maintain compliance with applicable pretreatment standards and requirements upon reduction, loss, or failure of its wastewater treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

B. A user who wishes to establish the affirmative defense of upset to an enforcement action brought for noncompliance with applicable pretreatment standards shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

1. An upset occurred; the user can identify the cause(s) of the upset; and it was not due to improperly designed or inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation;

2. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

3. The user has submitted the following information to the POTW and the water/sewer superintendent within 24 hours of becoming aware of the upset. If this information is provided orally, the user must submit a written report within five days containing this same information:
A description of the indirect discharge and cause of noncompliance;
The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

D. Users will only have the opportunity for a judicial determination on a claim of upset in an enforcement action brought for noncompliance with applicable pretreatment standards. In any such enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

14.14.450 Bypass.

A. A user may allow a bypass to occur if it does not cause applicable pretreatment standards or requirements to be violated, and if it is for essential maintenance to ensure efficient wastewater treatment operations. These bypasses are not subject to the provision of subsections (B) and (C) of this section.

B. Requirements for bypasses subject to pretreatment standards or requirements:

1. If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW, at least 10 days before the date of the bypass, if possible.

2. A user shall give verbal notification to the public works director of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours of becoming aware of the bypass, and submit a written report to the water/sewer superintendent within five days of becoming aware of the bypass.

3. The written report shall contain: a description of the bypass and its cause; the duration of the bypass, including exact dates and times; the anticipated time when any ongoing bypass is expected to be halted; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The water/sewer superintendent may waive the written report if the verbal notification has been received within 24 hours.

C. Exceptions. Bypass is prohibited, and the POTW may take an enforcement action against a user for a bypass, unless:

1. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage (as defined herein);

2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated or inadequately treated wastewaters, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment could have been installed and the exercise of reasonable engineering judgment to prevent a bypass, which occurred during normal periods of equipment downtime or preventive maintenance; and

3. The user submitted notices as required in subsection (B) of this section.

E. The public works director may approve an anticipated bypass, after considering its adverse effects, if he/she determines that it will meet the three conditions listed in subsection (C) of this section.

Section 2

The provisions of this Ordinance are severable, and if any provision of this Ordinance, or application of any provision of this Ordinance to any circumstance is held invalid, the application of such provision to the other circumstances, and the remainder fo this Ordinance shall not be affected thereby.

Section 3

All other Ordinances and parts of other Ordinances inconsistent or conflicting with any part of this Ordinance, are hereby repealed to the extent of the inconsistency or conflict.

This Ordinance shall be in full force and effect immediately following its' passage, approval and publication, as provided by law.

APPROVED by be this _____day of _____2015

_____
Kathleen A. Warren, Mayor

ATTEST:

_____
Vickie Storey, City Clerk

Approved as to form:

_____
James W. Grow, City Attorney