

CHEHALIS CITY COUNCIL AGENDA
 CITY HALL
 350 N MARKET BOULEVARD, CHEHALIS, WA 98532

Anthony E. Ketchum Sr., District 3 Mayor	Dennis Dawes, Position at Large, Mayor Pro Tem Chad E. Taylor, Position at Large Bob Spahr, Position at Large	
Terry F. Harris, District 1		
Daryl J. Lund, District 2		
Dr. Isaac S. Pope, District 4		

Regular Meeting of February 14, 2011

6:00 p.m.

ITEM	ADMINISTRATION RECOMMENDATION	PAGE
1. <u>Call to Order.</u> (Mayor)		
2. <u>Pledge of Allegiance.</u> (Mayor)		

CITIZENS BUSINESS
This is an opportunity for members of the audience to address the council on matters not listed elsewhere on the agenda. Speaker identification forms are available at the door and may be given to the city clerk prior to the beginning of the meeting.

PRESENTATIONS / PROCLAMATIONS		
3. <u>Proclamation – Rotary Day in Chehalis.</u> (Mayor)		

CONSENT CALENDAR		
4. <u>Minutes of the Regular Meeting of January 24, 2011.</u> (City Clerk)	APPROVE	1
5. <u>Vouchers and Transfers.</u> (Finance Manager)	APPROVE	7
6. <u>Resolution No. 2-2011, First and Final Reading - Adopting the Lewis County Comprehensive Emergency Management Plan, the National Incident Management System, and the Incident Command System.</u> (City Manager)	ADOPT	9

STAFF AND CITY COUNCIL REPORTS		
7. <u>Staff Reports.</u>		
a. Update on FEMA mapping issue. (City Manager, Community Development Director)	INFORMATION ONLY	
b. Council goals and projects work session. (City Manager)	INFORMATION ONLY	12
c. Review process for comprehensive plan revisions. (Community Development Director)	INFORMATION ONLY	
8. <u>Council Reports.</u>		
a. Councilor reports. (City Council)	INFORMATION ONLY	
b. Council committee reports. (City Council)	INFORMATION ONLY	

UNFINISHED BUSINESS		
9. <u>Ordinance No. 865-B, Second and Final Reading – Providing for and Establishing Charges, Rates, and Fees for Installations and Connections to the Water System.</u> (Interim Public Works Director)	PASS	14
10. <u>Ordinance No. 866-B, Second and Final Reading – Providing for the Operation and Regulation of the Public Water System.</u> (Interim Public Works Director)	PASS	24
11. <u>Ordinance No. 867-B, Second and Final Reading – Providing for the Operation and Regulation of the Public Sewer System.</u> (Interim Public Works Director)	PASS	43
12. <u>Ordinance No. 868-B, Second and Final Reading – Establishing a System and Structure of Rates for the Storm and Surface Water Utility.</u> (Interim Public Works Director)	PASS	83
13. <u>Ordinance No. 869-B, Second and Final Reading – Vacating a Portion of NW Louisiana Avenue.</u> (Community Development Director)	PASS	90

NEW BUSINESS		
14. <u>Resolution No. 3-2011, First and Final Reading – Providing Support for TransAlta.</u> (City Manager)	ADOPT	95
15. <u>Resolution No. 4-2011, First and Final Reading – Declaring City Property to be Surplus.</u> (City Clerk)	ADOPT	98

NEW BUSINESS CONTINUED

16. Resolution No. 5-2011, First and Final Reading – Approving Formation of a Regional Fire Protection Service Authority Planning Committee. (City Manager)

ADOPT

101

**THE CITY COUNCIL MAY ADD AND TAKE ACTION ON
OTHER ITEMS NOT LISTED ON THIS AGENDA**

NEXT REGULAR CITY COUNCIL MEETING WILL BE ON MONDAY, FEBRUARY 28, 2011

January 24, 2011

The Chehalis city council met in regular session on Monday, January 24, 2011, in the Chehalis city hall. Mayor Ketchum called the meeting to order at 5:46 p.m. with the following council members present: Terry Harris, Dr. Isaac Pope, Bob Spahr, Daryl Lund, Chad Taylor, and Dennis Dawes. Staff present included: Merlin MacReynold, City Manager; Bill Hillier City Attorney; Judy Schave, City Clerk; and Peggy Hammer, Human Resources Administrator.

1. **Executive Session.** Mayor Ketchum announced the council would convene into executive session pursuant to RCW 42.30.110(1)(i) – potential litigation for approximately 15 minutes and there would be no decision following conclusion of the executive session.

Mayor Ketchum closed the executive session at 6:01 p.m. and announced the council would take a four minute recess before reopening the regular meeting at 6:05 p.m. Additional staff included: Glenn Schaffer, Police Chief; Becky Fox, Court Administrator; Bob Nacht, Community Development Director; Eva Lindgren, Finance Manager; Tim Grochowski, Public Works Director; Judith Smith, Public Works Office Manager; Rick Sahlin, Street Superintendent; and Dave Vasilauskas, Water Superintendent. Members of the news media included Rachel Thomson from *The Chronicle*, and Paul Walker from KITI.

2. **Update on Fisheries Study.** Edna Fund, the city's delegate on the fisheries study, reported the study was continuing on the Chehalis River, adding they got a late start because of how the funding was set up and the time it took to select a company to do the work. She stated they requested a longer time period from the Legislature to complete the study because they wanted to include all four seasons.

3. **Employee Service Award.** Mayor Pro-tem Dawes presented Court Administrator Becky Fox with a certificate of recognition and appreciation for 30 years of dedicated service to the city.

4. **Briefing on Lewis County Comprehensive Emergency Management Plan (CEMP) Updates.** Lewis County Emergency Management Deputy Director Ross McDowell reported there were very few changes between the 2005 and 2010 versions of the Lewis County CEMP. He noted the biggest change came from the federal government, adding they decided to reduce the 38 chapters of emergency service functions down to 16.

Mr. McDowell reported the document was now a four phase plan that included the following: an Introduction Phase; Basic Plan; Emergency Service Functions; and Annexes and other supporting documentation that detailed the different emergency response and mitigation recovery plans that are in play for each one of the cities, and for the county. He noted the only city not included in the CEMP was the City of Centralia, who had their own CEMP, and do their own emergency management.

Mr. McDowell asked that the city review the information and bring back a resolution to accept the Lewis County CEMP, the National Incident Management System, and the Incident Command System.

Mr. McDowell reported Lewis County adopted a resolution on January 10, 2011, to accept the plan.

5. **Consent Calendar.** Councilor Dawes moved to approve the consent calendar comprised of the following:

a. Minutes of the regular meeting of January 10, 2011; and

b. Claim Vouchers No. 98826-98933 in the amount of \$138,895.60 dated December 30, 2010; Claim Vouchers No. 98934-99144 in the amount of \$675,296.16 dated January 14, 2011; Claim Vouchers No. 99145-99154 and 122010 in the amount of \$61,805.14 dated January 19, 2011; and Payroll Vouchers No. 34304-34388 and 1969-2035 in the amount of \$713,805.27 dated December 31, 2010.

The motion was seconded by Councilor Pope and carried unanimously.

6. **Staff Reports.**

a. **Quarterly, and November and December 2010 Financial Reports.** Eva Lindgren indicated she would focus primarily on the December report, rather than spend time on the report from November.

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Ms. Lindgren stated the December report incorporated the final budget amendment passed in December. She reviewed the revenues for the general fund, noting the expected variance was only off by one percent from what was budgeted. Ms. Lindgren reported she still had some final 2010 adjustments to make, but the numbers would be pretty close to what was being presented. She talked briefly about the general fund expenditures, noting they were 1.3 percent below what was approved in the amended budget.

Councilor Taylor asked if there would be any more tax revenues coming into the general fund. Ms. Lindgren reported everything that could be recorded in terms of revenue had been recorded for 2010. She reminded the council that the city was cash-basis, which meant they don't accrue any receivables. Ms. Lindgren indicated she still had to do some interest reclassifications to the fund.

Councilor Taylor stated he was concerned about the variance in expected revenues, adding he thought the city pretty much knew what would be brought in. Councilor Harris suggested some revenues are based on the number of customers and the services provided. He noted the Solid Waste Advisory Committee received a monthly breakdown from LeMay that listed the number of customers who are receiving service, adding those numbers varied from month to month.

Councilor Spahr reported the budget showed a \$554,000 shortfall, and asked if that had anything to do with the adjustments made to the budget throughout the course of the year. Ms. Lindgren reported they sometimes budget to drawdown fund balance, which would show up on the report as a negative. She noted she would be reclassifying some police department expenditures to the gambling enforcement fund, which would change the actual net budget/income significantly for 2010. Ms. Lindgren projected she would be very close to the estimated beginning fund balance for 2011.

Ms. Lindgren reported on the wastewater revenues and expenditures, stating they were within two percent of the revenue projections. She noted the unadjusted expenditure numbers were over by .03 percent, but she still had some adjustments to make to reclassify some of the expenses out of the wastewater fund.

Councilor Harris inquired about the wastewater and water connection fees and sales. Ms. Lindgren reported one of the biggest adjustments they do in the water and wastewater funds was for the receivables. She noted when those were adjusted the actual revenues on the adjusted financials would either go up or down.

Councilor Taylor thought they had received a large connection fee from a tenant in the industrial park. Mr. Grochowski indicated the city received approximately \$100,000 from one tenant in the industrial park in 2010.

Ms. Lindgren reported on the 4th quarter financial report, noting it also included the budget amendments approved in December, but still required some year-end adjustments. She noted the beginning actual numbers were solid; however, the revenues, transfers-in, expenditures, and transfers-out could potentially change. Ms. Lindgren noted the estimated general fund balance should go up by approximately \$120,000, while the gambling enforcement fund would go down by the same amount. She indicated the interest income was very low and the reclassifications were not going to be that significant.

Councilor Taylor asked if there was special insurance to protect money the city keeps in the bank. Ms. Lindgren reported the city's money was protected, adding Washington State specifies which institutions may get governmental deposits. She noted banks had to meet certain requirements and agree to cover the money to make it whole.

b. **4th Quarter 2010 Sales and Use Tax Report.** Ms. Lindgren reminded the council that they reduced the budget in December to reflect what they anticipated they would receive in sales and use tax in 2010. She reported the final numbers exceeded projected budget by \$15,743.

Councilor Lund suggested things were pretty slow out there, adding people were getting laid off and businesses were cutting their hours.

7. **Update on Flood Authority.** Julie Balmelli-Powe reported they were currently working on the formation of a new flood zone district. She noted the flood authority was scheduled to go away June 30, 2011, and they had been directed to form some other organization to take its place by that time.

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Ms. Balmelli-Powe reported the FCS Group, hired by the flood authority to form the district, was dealing with the eleven jurisdictions trying to get everyone on the same page. She noted there was legislation going through that would allow the formation of multi-county flood jurisdictions; however, the new organization would not be in place by the time the flood authority goes away. Ms. Balmelli-Powe stated the plan was to have an interlocal agreement to include the three counties, the Tribe and one city representative to take the place of the flood authority until the multi-county jurisdiction is formed. She noted the interests of Grays Harbor were obviously not the same as Chehalis, and believed the city would lose most of its representation once the flood authority goes away.

Ms. Balmelli-Powe reported the studies on water retention were looking good. She stated they just completed phase 2-b on the benefit cost analysis that passed on the one dam, but not on the second dam. Ms. Balmelli-Powe reported the Governor had money in the budget to fund a hydraulic study from Grand Mound to the headwaters. She stated they didn't know what effect retention would have past Grand Mound, but once they can prove how much decline in water there will be, it would strengthen the position for water retention.

Councilor Taylor asked how Ms. Balmelli-Powe was going to battle the representation issue. Ms. Balmelli-Powe stated Thurston County was against any form of a flood solution that would help Lewis County, adding they clearly feel that we created our own problem, and the Tribe and Grays Harbor appear to be on the same page. She reported she was hoping to get the cities throughout the basin to say they would like to have city representation from both Grays Harbor and Chehalis, to at least equal out the vote.

Ms. Balmelli-Powe reported that if they form the district the way they have suggested, everybody would have an equal vote. She didn't believe that was fair, since Thurston County receives a lot less damage than what Lewis and Grays Harbor receive. Councilor Harris noted they also had a lot less involvement, with reference to square miles. Ms. Balmelli-Powe stated she would be arguing that they need to go on a weighed vote based on what portion of the basin belongs to each county, rather than one county, one vote. Councilor Taylor thought that was a great idea. Councilor Harris thought getting that to fly would be difficult at best. Ms. Balmelli-Powe suggested it would be bad for the city if they form something that we have no control over. Mayor Ketchum and Councilor Taylor both agreed.

Councilor Taylor inquired as to how the one representative would be elected. Ms. Balmelli-Powe suggested the cities could elect that person amongst themselves, or take turns. Councilor Taylor asked if it would be helpful if the city put together a position paper to improve our case. Ms. Balmelli-Powe stated she would welcome a letter. She noted they had a meeting set up with the FCS Group on February 28; however, her personal opinion was they were not working for the cities.

City Manager MacReynold reported the council would be briefed by the FSC Group on what the alternatives are on February 28. Ms. Balmelli-Powe suggested the reason the meeting with the FSC Group was scheduled for the 28th was because their decision would already be made on the 17th. She felt the FCS Group was leading the group in a direction that would not be favorable to the city. Councilor Taylor noted they could raise their concerns at the meeting, but thought it would be nice if they could still give Ms. Balmelli-Powe some ammunition from the city. Mayor Ketchum felt they needed to get something to the FSC Group and to the flood authority on our position, as soon as possible.

Ms. Balmelli-Powe reported the other issue they were pushing for was the flood hazard mitigation plan. She stated there were 16 suggested regulations for building in the floodplain, followed by five more that were considered to be ideal. Councilor Taylor requested a copy of the 16 regulations be sent to Community Development Director Bob Nacht once they have those available, so the city can battle them before they get passed. Mr. Nacht reported he was part of the technical team that put the regulations together, and on the surface he didn't have any particular issues with the 16 regulations. He noted, with regard to the ideal 'five,' those would still need to be discussed.

Councilor Harris felt Ms. Balmelli-Powe was a strong advocate for the city and we were fortunate to have her, adding she's always looking out for the city's best interest.

8. Council Reports.

a. Update from Councilor Spahr. Councilor Spahr reported he attended the Cowlitz-Lewis Economic Development District meeting on January 19. He stated he volunteered to be on a by-laws committee primarily because they would be talking

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about funding from the jurisdictions involved. Councilor Spahr reported they were also working on an outline for an economic adjustment regional grant application that could be used on abandoned sites to develop comprehensive plans on how to use the property and develop it. He noted they were also working on a grant for a Three-Rivers Business and Technical Center.

b. **Update from Councilor Dawes.** Councilor Dawes reported he attended the regional fire district meeting, adding they were getting a little more formal with the process and had already given the first sub-committee some work to do. He indicated their next meeting was set for March and would probably involve more representatives from the city council. Councilor Dawes noted they had a potential facilitator, whom he believed would bring instant credibility to the process and would make sure the group sticks to what they are there to do and not get side-tracked.

c. **Update from Councilor Harris.** Councilor Harris reported he and other city representatives attended the Chamber banquet, adding it was a very nice event. He also attended a Chehalis Business Association (CBA) meeting, noting they were in the process breaking the organization up into 'event' committees, so each committee can take care of an event rather than the whole committee trying to take care of everything. He thanked Police Chief Glenn Schaffer for coming to the CBA meeting to make a presentation on crimereports.com.

Councilor Harris reported he and a majority of the council attended the neighborhood meeting with American Behavioral Health Systems (ABSH) on January 18. He thought it was a very good meeting, noting there were fewer residents and a lot more employees and former employees of ABHS in attendance. Councilor Harris believed trust in the community was growing, as evident by the fact that there were fewer residents in attendance; however, they still had a long way to go.

Councilor Harris reported he attended a solid waste advisory committee meeting on January 19, adding comingled recycling was up and tonnage of waste was down, which meant their income was down, as well. Councilor Harris indicated construction debris was primarily what they were seeing a great reduction in, adding they were working hard not to increase the tipping fees at the station.

Councilor Harris reported he attended the Chehalis River Basin Partnership meeting where they accepted an agreement with a pro bono attorney group to coordinate the 501(c)(3) process, which would allow them to receive additional funding. He noted as of June 30, 2011, all their current funding sources would go away. Councilor Harris stated the Chehalis Tribe donated \$15,000 to the program to help fund staff for another three to four months.

Councilor Harris reported the basin partnership got a letter off to the Governor's office, basically echoing what the flood authority sent. He noted the Governor's office was talking about taking the lead on both the flood and environmental preparations, since Grays Harbor County could no longer afford to fund the lead entity process. Councilor Harris felt it would free up about a half a million dollars that could go towards the progress of the partnership to implement the plans they have been working on.

Councilor Harris reported he also attended Tim Grochowski's retirement party at the public works department earlier in the afternoon.

d. **Resolution of Support for TransAlta.** Councilor Spahr reported, back when Governor Locke was in office, there was an agreement reached between TransAlta and the State of Washington, where TransAlta would spend millions of dollars to put in scrubbers and other things to clean the environment. He stated, according to a newspaper article, TransAlta had done considerable things to clean even more since that time. Councilor Spahr indicated the legislature was talking about forcing them to shut down by 2025, and environmental groups were requesting that they shut down before then. He was wondering if it would be beneficial if the city presented a resolution in support of TransAlta. Mayor Ketchum thought that was a great idea.

Councilor Lund also thought it was a great idea, adding the Port of Chehalis Commissioners had already signed a letter of support and mailed it in. City Manager MacReynold reported a resolution would be brought to the council for their consideration at the next regular meeting.

e. **ABHS Discussion.** Councilor Taylor reported the old hospital was a great building for the purpose of ABHS, but felt it was in the wrong location. He stated he didn't know what else they could do, noting he talked with a few of the neighbors to let them know that it was unfortunate, but the city could not regulate the types of business if they meet the zoning requirements.

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Councilor Taylor asked if there was anything left for the city to do with regard to the situation.

City Manager MacReynold reported the city would continue to monitor and make sure they continue to progress. He felt they understood the need for better communication as far as what they had done and how they accomplished it. City Manager MacReynold reported he and CEO Craig Phillips talked after the meeting about possibly having a monthly open-house in their lobby, to open up some of that communication. He noted the city clerk would produce minutes from the meeting and would make them available to anyone requesting them.

Councilor Harris thanked City Manager MacReynold for having the wisdom to schedule the meeting in the first place. He stated, as they found out, there was a much bigger wound festering under the surface than what anyone knew about. City Manager MacReynold stated he couldn't take credit for it, adding the city had been receiving a number of complaints and it was the city clerk who suggested the neighborhood meeting.

Councilor Lund wondered if they could work with the Department of Corrections (DOC) to put a little more pressure on them to make sure they're abiding by the state rules. City Manager MacReynold didn't think the city had to put any more pressure on them, adding DOC had two representatives at the first meeting and several more at the second. Councilor Dawes didn't believe there was any more the city could do, adding he felt the state would work on their angle, and the owner needed to become a little bit more of a politician and say what he's been doing and produce results for what he says he's been doing. He believed they were making steps in the right direction and hoped it would continue to get better.

Councilor Lund asked if the city could write a letter to DOC to thank them for sending their staff to the meetings. City Manager MacReynold agreed that a letter of thanks would be nice.

9. Ordinance No. 865-B First reading – Providing for and Establishing Charges, Rates, and Fees for Installations and Connections to the Water System; Ordinance No. 866-B, First Reading – Providing for the Operation and Regulation of the Public Water System; Ordinance No. 867-B, First Reading – Providing for the Operation and Regulation of the Public Sewer System; and Ordinance No. 868-B, First Reading – Establishing a System and Structure of Rates for the Storm and Surface Water Utility. Mr. Grochowski reported they took all of the council's recommendations and incorporated them into the ordinances; such as: the due date would remain on the 20th of the month; the delinquent fee would be added on the 21st of the month, and delinquent statements would be sent out the following business day; delinquent accounts would be shut off if not paid within seven days from the date of the delinquent statement; all new accounts would require a \$200 deposit; and water connection charges would be calculated by using equivalent residential units.

Councilor Spahr stated he just wanted to clarify that the deposit was necessary to turn water on, but would be applied to the entire bill at the time the account is closed, and not just the water portion. Mr. Grochowski stated that was correct. Councilor Taylor brought up the issue of landlords requiring higher deposits. Mr. Grochowski reported landlords could require whatever amount they want, but the city would only require a \$200 deposit to turn utilities on.

Councilor Dawes stated there really was no increase in anything other than the deposit, adding the rates were not being increased.

Councilor Dawes moved to pass Ordinance Nos. 865-B, 866-B, 867-B and 868-B on first reading and suspend the reading of the ordinances.

The motion was seconded by Councilor Harris and carried unanimously.

10. Ordinance No. 869-B, First Reading – Vacating a Portion of NW Louisiana Avenue. Bob Nacht reported the petitioner was requesting two pieces of excess rights-of-way along Louisiana Avenue be vacated. He stated, in order to straighten out the line, the city requested the petitioner dedicate a piece of their property to the city. Mr. Nacht noted the petitioner would also be conveying a small piece of property to the city located on the northwest portion of the parcel. He reported, since the city was vacating more square footage of land than it was receiving, there would be some cash transaction by the petitioner. He noted once they have an appraisal done, they would know more of what that amount would be.

Councilor Harris moved to pass Ordinance No. 869-B on first reading.

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The motion was seconded by Councilor Lund and carried unanimously.

11. **Resolution No. 1-2011, First and Final Reading – Adopting a Policy of Granting Awards in Recognition of Service to the City.** Peggy Hammer reported, in addition to certificates of appreciation, employees were awarded jeweled pins, and more recently, the city participated with The Chamber of Commerce in awarding 'chamber bucks.' She reported because of the economic situation and the discontinuation of the 'chamber bucks' program, the administration was bringing forward a new resolution to remove the financial award from the service recognition process. Ms. Hammer stated they would certainly maintain the certificates for the appreciation they had for the employees for their years of service. She noted the resolution did not impact longevity pay for employees, just the milestone service awards.

Councilor Lund asked if an employee's time would be combined into total years served if they worked for the city on two separate occasions. Councilor Harris noted the resolution addressed the issue of an employee's time being interrupted, adding they would receive credit for continuous length of service.

Ms. Hammer noted there were no funds allocated in the 2011 budget for monetary awards. Mayor Ketchum noted the 'chamber bucks' were discontinued because it wasn't cost effective for The Chamber, adding the city was the only agency left participating in the program.

Councilor Taylor moved to adopt Resolution No. 1-2011 on first and final reading.

The motion was seconded by Councilor Lund and carried unanimously.

12. **Public Servant Farewell.** Mayor Ketchum presented Tim Grochowski with a certificate of recognition and appreciation for 33 years of dedicated service to the city. City Manager MacReynold presented Mr. Grochowski with a jacket from the management team and congratulated him on his retirement.

Mr. Grochowski reflected on his years of service with the city. He reported he started in 1978 in the water department and transferred to the street department in 1981. Mr. Grochowski was appointed as street superintendent in 1985, at which time he created a list of 16 street projects he wanted to see done. He reported there were only two projects on the list that had not been accomplished, and Chamber Way was not one of the original projects listed. In 2004, Mr. Grochowski was appointed to the position of Public Works Director, making him the third director of that department. He hoped the next director would put their heart and soul into the community as he had done.

Mr. Grochowski thanked everyone for their support and for allowing him to serve the city. He stated it was a great 33 years of his life, adding he couldn't have done it without his wife, Billie.

Councilor Dawes stated he has some fond memories of working with both Mr. Grochowski and Andy Sennes, adding the three of them had accomplished a lot of things that needed to be done. He wished Mr. Grochowski all the best in his retirement.

There being no further business to come before the council, the meeting adjourned at 7:35 p.m.

Mayor

Attest:

City Clerk

SUGGESTED MOTION

I move that the council approve the minutes of the regular city council meeting of January 24, 2011.

CITY OF CHEHALIS
AGENDA REPORT

DATE: January 31, 2011
TO: The Honorable Mayor and City Council
FROM: Eva Lindgren, Finance Manager *EL*
PREPARED BY: Michelle White, Accounting Tech II *MW*
SUBJECT: Vouchers and Transfers

ISSUE

Council approval is requested of the following financial transactions:

1. Claim Vouchers No. 99155 through 99252 in the amount of \$120,380.60 dated January 31, 2011 and the transfer of \$66,398.61 from the General Fund, \$255.66 from the Gambling Enforcement Fund, \$25,201.85 from the Wastewater Fund, \$26,525.01 from the Water Fund, \$417.30 from the Storm & Surface Water Utility Fund and \$1,582.17 from the Firemen's Pension Fund.

RECOMMENDATION/COUNCIL ACTION DESIRED

The administration recommends that the council approve the January 31, 2011 Claim Vouchers No. 99155 through 99252 in the amount of \$120,380.60.

SUGGESTED MOTION

I move to approve the January 31, 2011 Claim Vouchers No. 99155 through 99252 in the amount of \$120,380.60.

Reviewed by: , City Manager

CITY OF CHEHALIS
AGENDA REPORT

DATE: January 31, 2011
TO: The Honorable Mayor and City Council
FROM: Eva Lindgren, Finance Manager *EL*
PREPARED BY: Michelle White, Accounting Tech II *MW*
SUBJECT: Payroll Vouchers and Transfers

ISSUE

Council approval is requested of the following financial transactions:

1. Payroll Vouchers No. 34389 through 34465, Direct Deposit Payroll Vouchers No. 2036 through 2102, and Electronic Federal Tax Payment No. 95 in the amount of \$696,366.42 dated January 31, 2011, and the transfer of \$496,635.91 from the General Fund, \$12,437.47 from the Arterial Street Fund, \$80,267.18 from the Wastewater Fund, \$82,047.55 from the Water Fund, \$19,947.41 from the Storm & Surface Water Utility Fund, and \$5,030.90 from the Firemen's Pension Fund.

RECOMMENDATION/COUNCIL ACTION DESIRED

The administration recommends that the council approve the January 31, 2011, Payroll Vouchers No. 34389 through 34465, Direct Deposit Payroll Vouchers No. 2036 through 2102, and Electronic Federal Tax Payment No. 95 in the amount of \$696,366.42.

SUGGESTED MOTION

I move to approve the January 31, 2011, Payroll Vouchers No. 34389 through 34465, Direct Deposit Payroll Vouchers No. 2036 through 2102, and Electronic Federal Tax Payment No. 95 in the amount of \$696,366.42.

Reviewed by: *MacDy...*, City Manager

CITY OF CHEHALIS

AGENDA REPORT

DATE: January 26, 2011
TO: The Honorable Mayor and City Council
FROM: Kelvin Johnson, Fire Cheif
SUBJECT: Resolution No. 2-2011 – Adopting the 2011 Lewis County Comprehensive Emergency Management Plan (CEMP), National Incident Management System, and Incident Command System

ISSUE

The request from the Lewis County Division of Emergency Management for a resolution from the City of Chehalis to accept the 2011 CEMP revisions including the annexes.

DISCUSSION

On Monday, January 24, Division of Emergency Management, Deputy Director G. Ross McDowell met with the council to address the updates made to the 2011 Lewis County CEMP. The plan is reviewed annually and after each activation of the County Emergency Operations Center/Emergency Coordination Center and revised every four years.

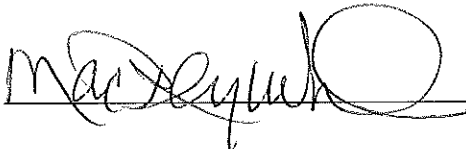
The Lewis County CEMP is a multi-jurisdictional plan that establishes mutual understanding among government agencies, business and industry, volunteer organizations, and citizens on the most common roles and responsibilities that will occur in any type of event.

RECOMMENDATION/COUNCIL ACTION DESIRED

The administration recommends that the council adopt Resolution No. 2-2011 on first and final reading.

SUGGESTED MOTIONS

I move that the council adopt Resolution No. 2-2011 on first and final reading.

REVIEWED BY:  _____, CITY MANAGER

RESOLUTION NO. 2-2011

**ADOPTION OF 2011 LEWIS COUNTY COMPREHENSIVE
EMERGENCY MANAGEMENT PLAN, NIMS, AND ICS**

**THE CITY COUNCIL OF THE CITY OF CHEHALIS, WASHINGTON, DO
RESOLVE AS FOLLOWS:**

WHEREAS, the Lewis County Sheriff's Office, Division of Emergency Management has completed the revision of the Comprehensive Emergency Management Plan and reformatted it for consistency with Federal and State plans pursuant to RCW 38.52.070 and WAC 118.07; and,

WHEREAS, the plan has been presented for review to the City of Chehalis as a comprehensive set of guidelines for coordinating countywide disaster mitigation, preparedness, response and recovery in compliance with RCW 38.52.070; and,

WHEREAS, the City has reviewed said plan, and it appears to be in the best public interest to adopt the plans for the City of Chehalis; and

WHEREAS, the President, in Homeland Security Directive (HSPD)-5 directed the development of a National Incident Management System (NIMS), to provide a nationwide approach institutionalizing the use of the Incident Command System (ICS) for Federal, State, local, and tribal governments to work together to prevent, prepare for, respond to and recover from domestic incidents; and

WHEREAS, the Governor of the State of Washington has similarly endorsed NIMS and ICS by proclaiming them to be the official basis for management of incident response in Washington State; and

WHEREAS, HSPD-5 requires Federal departments and agencies to make adoption of the NIMS/ICS by State, tribal, and local organizations a condition for Federal preparedness assistance beginning in fiscal year 2006.

NOW, THEREFORE, BE IT RESOLVED that the aforesaid NIMS/ICS compliant Lewis County Comprehensive Emergency Management Plan is hereby approved and adopted by the City of Chehalis, Lewis County, Washington; and

BE IT FURTHER RESOLVED that said plans shall be distributed to all City of Chehalis departments to make them fully aware of their responsibilities and functions, which have been incorporated into the Comprehensive Emergency Management Plan; and

BE IT FURTHER RESOLVED that all Lewis County "First Responder" agencies including fire, law enforcement, emergency medical, public works, public health, emergency

communications, emergency management and other agencies involved in disaster preparedness, prevention, response and recovery activities shall support the nation-wide implementation of the National Incident Management System (NIMS).

ADOPTED by the City Council of the city of Chehalis, Washington, and **APPROVED** by its Mayor, at a regularly scheduled open public meeting thereof this ____ day of _____, 2011.

Mayor

Attest:

City Clerk

Approved as to form and content:

City Attorney

**CITY OF CHEHALIS
AGENDA REPORT**

TO: The Honorable Mayor and City Council
FROM: Bob Nacht, Community Development Director
DATE: February 9, 2011
SUBJECT: Public Hearing – Planning Commission Review of the Comprehensive Plan Revisions

ISSUE

There are several requirements of the State Growth Management Act that will need to be incorporated into the Chehalis Comprehensive Plan (Comp Plan) since it was last updated in 2003. The Planning Commission has scheduled a public hearing to encourage public participation in the process.

DISCUSSION

The Community Development department has been working on proposed amendments to the Plan since 2008. Last year, the city hired a consultant, Ms. LaJane Schopfer, to write an amendment to the city's Critical Areas Ordinance (CAO), and continue the work on updating the Comprehensive Plan. Periodic updates of both the CAO and the Comp Plan are required by the Act.

Ms Schopfer has completed the draft of the proposed amendments to the Plan. They are now posted on the city's website for public review. There are significant changes to some of the chapters to comply with new requirements of the Act. There are also new sections to address the adoption of the Renaissance Plan, the future Parks, Recreation and Open Space (PROS) Plan and economic development.

The Act requires review of proposed amendments to the Comp Plan by the Planning Commission. The Commission has been involved in this process since 2008, and is now ready to conduct a public hearing on the proposal. That public hearing is scheduled for Tuesday, February 22, 2010, at 6:00 pm in the council chambers.

The public comments received during the Commission's hearing, and a recommendation from the Commission, will be forwarded to the Council at the second meeting in March. The administration will present a narrative of the proposed amendments to the Council at that time, and answer any questions.

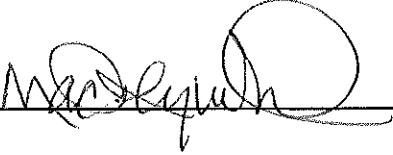
The public is encouraged to review the proposed amendments on the city's website. If the Council or the public has any questions regarding the proposed amendments, the Community Development department can respond to them. The current draft will be revised prior to final presentation and adoption. The State Environmental Policy Act (SEPA) process and any public comments will need to be added to the Plan later. The adopting ordinance will also provide for the required GMA adoption process.

RECOMMENDATION / COUNCIL ACTION DESIRED

This report is presented for information only; no Council action is necessary at this time.

SUGGESTED MOTION

[none]

Reviewed by  _____ City Manager

CITY OF CHEHALIS

AGENDA REPORT

DATE: January 19, 2011

TO: The Honorable Mayor and City Council

FROM: Rick Sahlin, Interim Public Works Director
Dave Vasilauskas, Water Superintendent
Patrick Wiltzius, Wastewater Superintendent
Judi Smith, Public Works Office Manager

SUBJECT: Ordinance Nos. 865-B, 866-B, 867-B, and 868-B - Providing for the Operation and Regulations for the Public Water, Sewer, and Storm and Surface Water Utility Systems

ISSUE

On January 24, the administration presented Ordinance Nos. 865-B and 866-B, providing for the operation and regulation of the public water utility system and establishing charges, rates, and fees; Ordinance No. 867-B providing for the operation and regulation of the public sewer utility system; and Ordinance No. 868-B, providing for the structure of rates for the storm and surface water utility system for the councils review and consideration.

DISCUSSION

Attached are the new ordinances, prepared as directed by the city council at the January 10 council meeting, to reflect the following:

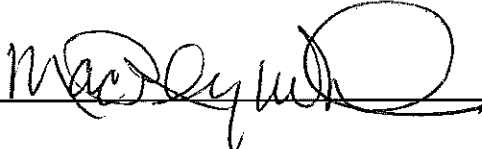
- The utility bill due date will remain the 20th of the month, or next full business day.
- Delinquent fees will be applied and delinquent statements mailed on the following business day. If delinquent accounts are not paid within seven days from the date of the delinquent statement, a shut off list will be compiled and water service to the premises will be shut off.
- All new accounts will require a \$200 deposit. The deposit will be applied to the final bill when the account is closed and any credit on the account will be refunded.
- Water connection charges will be calculated by using equivalent residential units (ERUs) based on actual water use.

RECOMMENDATION/COUNCIL ACTION DESIRED

The administration is recommending that the council pass Ordinance Nos. 865-B, 866-B, 867-B, and 868-B, as amended, on second and final reading, repealing water utility Ordinance Nos. 695-B, 697-B, 741-B, 751-B, 771-B, and 772-B; wastewater utility Ordinance Nos. 696-B, and 737-B; and storm water utility Ordinance Nos. 480-B, 775-B, and 792-B.

SUGGESTED MOTIONS

I move that the city council pass Ordinance Nos. 865-B, 866-B, 867-B, and 868-B, as amended, on second and final reading.

REVIEWED BY: , CITY MANAGER

ORDINANCE NO. 865-B

AN ORDINANCE OF THE CITY OF CHEHALIS, WASHINGTON, PROVIDING FOR AND ESTABLISHING CHARGES, RATES, AND FEES FOR INSTALLATIONS AND CONNECTIONS TO THE WATER SYSTEM OF THE CITY OF CHEHALIS, AND THE PROVIDING OF WATER SERVICES; ESTABLISHING A LOW-INCOME SENIOR CITIZEN CUSTOMER AND TOTALLY DISABLED CUSTOMER WATER DISCOUNT RATE; REPEALING ORDINANCE NO. 697-B, PASSED THE 13TH DAY OF AUGUST, 2001; ORDINANCE NO. 751-B, PASSED THE 14TH DAY OF JULY, 2003; ORDINANCE NO. 771-B, PASSED THE 27TH DAY OF SEPTEMBER, 2004; AND ORDINANCE NO. 772-B, PASSED THE 27TH DAY OF SEPTEMBER, 2004, CODIFIED IN THE CHEHALIS MUNICIPAL CODE AS CHAPTER 13.12; AND ESTABLISHING THE EFFECTIVE DATE HEREOF.

THE CITY COUNCIL OF THE CITY OF CHEHALIS, WASHINGTON, DO ORDAIN AS FOLLOWS:

13.12.010 Definitions.

The following words or phrases shall have the meanings set forth for the purposes of this ordinance:

“Connection” means any physical connection to the city water system by any water service or any private water system, or any pipeline extension.

“Cost” means the cost of labor, material, transportation, supervision, engineering, and all other necessary overhead expenses.

“Customer” means any person, firm, or corporation obtaining or using water service from the water system of the city.

“Equivalent residential unit (ERU)” means or refers to a unit of water capacity determined by the city to be equivalent to the capacity (or average capacity) typically used by, or allocated to, a single-family residential dwelling unit. For the purposes of this ordinance an ERU of water capacity shall be equal to 300 gallons per day of water use as determined through the standard water billing process.

“Income” means gross income as defined in Section 61(a) of the Internal Revenue Code of 1954, as now in effect or hereafter amended, plus any and all Social Security retirement and/or disability payments, Veterans Administration retirement and/or disability payments, Railroad Retirement Board pension and/or disability payments, and payment received from any other public or private pension, retirement, profit sharing and disability plans, unemployment compensation, and income from any other source.

“Low-income senior citizen customer” means a person who is 62 years of age or older and whose total income, including that of his or her spouse or co-tenant, does not exceed the sum of the existing State of Washington Department of Community, Trade and Economic Development low household income figure for community development block grant (CDBG) projects.

“Totally disabled customer” means any person who has been classified as totally disabled by the Social Security Administration and whose total income does not exceed the amount provided for low-income senior citizen customers.

13.12.020 Costs of installation.

A. The costs of installation to the city water system shall be as follows:

<u>Service Size</u>	<u>Meter Size</u>	<u>Cost</u>
¾"	5/8" x ¾"	\$ 700.00
1"	1"	1,000.00
1- 1½"	1- 1½"	1,500.00
2"	2"	2,000.00

B. These costs shall include meters where open cutting or conventional boring methods and direct burial of the service lines are not permitted. Where special conditions exist or special approvals and permit fees are required, all costs and fees associated with such restrictions, and any special conditions, shall be added to the above installation costs.

C. Where it is necessary to open cut paved roadway or to cross under a sidewalk and/or improved area between the curb and the property line to install the service, the customer shall also be charged the costs necessary to restore the disturbed roadway, sidewalk, or improved area to its original condition or better condition. Such costs for restoration shall include time and materials plus overhead charges.

D. For water service larger than two inches, the costs of the installation will be based on the actual cost for materials, labor, and equipment, plus overhead charges. The customer requesting a service larger than two inches shall pay a deposit in an amount of the public works director's estimate of the cost for construction work and the work shall thereafter be billed on the basis of actual cost difference from the estimated cost, including overhead.

13.12.030 Customer deposit.

A. A deposit in the sum of \$200.00 shall be paid by each residential water customer for accounts to serve premises that are occupied or used by the property owner and billed to the property owner. A deposit of \$200.00 shall be paid by each commercial water customer and each residential water customer for accounts to serve premises that are to be occupied by residential customers other than the owner of said premises at the time of application for a service connection or a service account. The deposit shall be retained by the finance manager in a separate account designated "customer deposit account." The deposit paid by each customer shall be refunded to the person paying the deposit at the time their account is closed out, provided there shall be deducted from the deposit any amount due the city for water, sewer or storm drain service rates and charges, including delinquency charges.

B. Any deposit not refunded to the customer or applied on the water, sewer or storm drain account of such customer when the account is closed out shall be held by the finance manager for a period of one year after the account is closed out. If demand is not made upon the finance manager for refund of the deposit by the customer paying the same within the period of one year after the account is closed out, the amount of the deposit remaining shall be deemed to be unclaimed property and shall pass to the State of Washington Department of Revenue, in accordance with the mandates of the Uniform Unclaimed Property Act of 1983, as it now exists or is hereafter amended.

13.12.040 Water service connection fees.

A. A water connection fee shall be imposed for connections to the water system of the city, which water connection fee shall be paid for each ERU at the current rate of \$2071.00 per ERU. Rates are subject to change upon approval of City Council.

B. The number of ERUs used to determine the charges for water connection fees shall be based on actual water usage, if such usage history is available. If no water usage history or information is available, the number of ERUs used to determine the charges for water connection fees shall be based on the estimated usage, as determined by the public works director.

C. In the cases where estimates of water usage are used to determine the number of ERUs and charges for water connection fees, water usage may be reviewed after the connection is in use for the period of one year. If, after an evaluation has been made, the actual determined number of ERUs is greater than the estimated number of ERUs, an additional charge for water connection shall be required and levied against the owner or person responsible for the connection. If any such additional charges are not paid, the water service shall be subject to disconnection. If, after an evaluation has been made, the actual determined number of ERUs is less than the estimated number of ERUs, a reimbursement equal to the difference in charges for the estimated number of ERUs and charges for the actual number of ERUs shall be made to the owner or person responsible for the connection.

13.12.050 Standby fire protection service capital facilities charges.

Capital facilities charges for connections to the city water system for the purpose of providing standby fire protection service shall be as follows:

<u>Service Size</u>	<u>Connection Fee</u>
2"	\$ 1,610
3"	3,210
4"	5,020
6"	10,040
8"	16,060
10"	23,090
12"	45,170

13.12.060 Service call charges.

A. Service calls, as defined by city ordinance, involving extraordinary and unusual time demands shall be charged to the customer requesting the service call at the cost of labor of each employee involved, including travel time, for service calls made during the hours of 8:00 a.m. to 4 p.m., Monday through Friday, except holidays. The minimum charge for such service call shall be \$25.00.

B. Service calls made on Saturdays, Sundays, holidays, or during the hours of 4 p.m. to 8 a.m., Monday through Friday, shall be charged to the customer requesting the service call at the cost of labor of each employee involved, including travel time. The minimum charge for such service call shall be \$75.00.

13.12.070 Cost for testing meters.

A. Any person requesting a test of any water meter as provided by city ordinance, shall, at the time of request, deposit with the finance manager the amount to be charged for such test as follows:

<u>Meter Size</u>	<u>Deposit</u>
5/8" x 3/4"	\$ 40.00
1"	50.00
1 - 1 1/2"	80.00

2"	100.00
3"	150.00
4"	200.00
6"	300.00
8"	400.00

B. Meters two inches and smaller in size shall be tested at the public works department. Meters larger than two inches shall be tested in the field. After the deposit has been made and the test has been scheduled, the customer shall be notified of the date and time that the meter test is scheduled to take place. The customer shall have the option of being present when such test is made. In the event the test discloses an error of more than three percent of water consumed in favor of the city, the deposit and any service charges shall be refunded to the customer, the meter shall be corrected or an accurate meter shall be installed, and the customer's account shall be credited with the amount charged for the excess consumption on the three previous readings. When the test discloses an error of three percent or less, the amount deposited shall be retained by the city to cover the costs of such test.

13.12.080 Rate of use of fire protection facilities for other purposes.

A. Whenever water is used from fire protection facilities or equipment for other purposes or fire protection water is misused, such usage shall be charged to the user at the rate of \$2.50 per 100 cubic feet.

B. Prior approval must be obtained before any person shall use water from fire protection facilities for other than their intended purpose. Any such person not obtaining prior approval shall be fined a penalty of \$100.00, in addition to the usage charge listed above.

13.12.090 Charge for fire protection.

The monthly charge for fire protection service shall be as follows:

<u>Water Meter Service Size</u>	<u>Inside City Limits</u>	<u>Outside City Limits</u>
2"	\$ 5.82	\$ 6.40
3"	11.26	12.39
4"	31.23	34.36
6"	92.95	102.25
8"	183.71	202.09
10"	292.63	321.89
12"	419.70	461.67

13.12.100 Delinquency charge.

A delinquency charge equal to 10 percent of the total water service charge shall be added to each unpaid bill.

13.12.110 Water rates inside of the city limits.

The water rates to be charged for water usage for customers inside the city limits shall be as follows:

A. Residential Fixed Rate:

Size of Water Meter Service	2005	2006	2007
5/8" x 3/4"	\$ 12.54	\$ 13.30	\$ 14.10
1"	17.99	19.07	20.23
1½" and 2"	37.96	40.25	42.68

Size of Water Meter Service	2008	2009	2010
5/8" x 3/4"	\$ 14.95	\$ 15.86	\$ 17.32
1"	21.45	22.74	24.84
1½" and 2"	45.25	47.98	52.42

B. Commercial Fixed Rate:

Size of Water Service	2005	2006	2007
5/8" x 3/4"	\$ 14.05	\$ 14.90	\$ 15.80
1"	20.12	21.34	22.63
1½" and 2"	42.39	44.95	47.66
3" and 4"	111.20	117.91	125.03
6"	212.39	225.21	238.81
8"	333.82	353.97	375.34

Size of Water Service	2008	2009	2010
5/8" x 3/4"	\$ 16.76	\$ 17.77	\$ 19.41
1"	23.99	25.44	27.79
1½" and 2"	50.54	53.59	58.54
3" and 4"	132.58	140.58	153.57
6"	253.22	268.50	292.32
8"	398.00	422.02	461.02

C. Consumption:

<u>Year</u>	<u>Amount Per Unit of 100 Cubic Feet</u>
2005	\$1.86
2006	1.97
2007	2.09
2008	2.22
2009	2.35
2010	2.57

D. Water rates inside the city limits and water rates outside the city limits shall be as stated for the year 2007 and shall remain the same for a period of 12 months from the effective date of Ordinance 826B, codified in this subsection. In all other respects, the terms and conditions of this section shall remain in full force and effect. At the end of the period of time for

which rates are tolled at the 2007 rate, the council shall enact new legislation providing for water rates.

13.12.120 Water rates outside of the city limits.

The water rates to be charged for water usage for customers outside the city limits shall be as follows:

A. Residential Fixed Rate:

Size of Water Meter Service	2005	2006	2007
5/8" x 3/4"	\$ 13.80	\$ 14.63	\$ 15.51
1"	19.79	20.98	22.25
1 1/2" and 2"	41.75	44.27	46.94

Size of Water Meter Service	2008	2009	2010
5/8" x 3/4"	\$ 16.45	\$ 17.44	\$ 19.05
1"	23.59	25.01	27.33
1 1/2" and 2"	49.78	52.78	57.66

B. Commercial Fixed Rate:

Size of Water Meter Service	2005	2006	2007
5/8" x 3/4"	\$ 15.46	\$ 16.39	\$ 17.38
1"	22.14	23.47	24.89
1 1/2" and 2"	46.63	49.44	52.42
3" and 4"	122.32	129.70	137.53
6"	233.63	247.73	262.69
8"	367.20	389.37	412.87

Size of Water Meter Service	2008	2009	2010
5/8" x 3/4"	\$ 18.43	\$ 19.54	\$ 21.35
1"	26.39	27.99	30.57
1 1/2" and 2"	55.59	58.94	64.39
3" and 4"	145.83	154.63	168.92
6"	278.55	295.35	322.65
8"	437.80	464.22	507.12

C. Consumption:

Year	Amount Per Unit of 100 Cubic Feet
2005	\$2.05
2006	2.17

2007	2.30
2008	2.44
2009	2.59
2010	2.83

D. Water rates inside the city limits and water rates outside the city limits shall be as stated for the year 2007 and shall remain the same for a period of 12 months from the effective date of Ordinance 826B, codified in this subsection. In all other respects, the terms and conditions of this section shall remain in full force and effect. At the end of the period of time for which rates are tolled at the 2007 rate, the council shall enact new legislation providing for water rates.

13.12.130 Rates for low-income senior citizen customers and low-income totally disabled customers.

A. The fixed rates for low-income senior citizen residential customers and low-income totally disabled customers shall be one-half (50 percent) of the residential fixed rates that would otherwise apply. All consumption shall be charged as provided in the rate schedule for residential customers inside and outside the city limits, whichever is applicable, as set forth in this chapter.

B. All low-income senior citizen residential customers and low-income totally disabled residential customers applying for low-income senior citizen customer or totally disabled residential customer rates herein provided shall furnish a claim for exemption in such affidavit form as shall be prescribed by the city manager. Such form shall be furnished on or before the thirtieth day of June of each year or within 30 days from the date of account opening or unexpected sudden change of income status. The city will consider applications furnished outside of this period.

C. Those customers applying for the totally disabled customer rate must furnish proof of such disability from the Social Security Administration.

13.12.150 Overhead charge.

An overhead charge of 25 percent of the total costs for labor, materials, and equipment for work and services performed or installation of service water lines or other facilities by the city shall be added to the costs charged to the customer. Such overhead charge shall be to accommodate administration, supervision, and accounting costs.

13.12.160 Water surcharge fees (latecomer fees).

A. The public works director may, at his discretion, establish and adopt water surcharge fees that, after their establishment, shall be imposed upon water customers connecting to specifically designated water utility extension(s) and/or water system improvements in defined areas.

B. Such surcharge fees shall be based on criteria established within the standard latecomer agreement form created by the development review committee.

C. In order for a water surcharge fee to be established, in addition to or separately from a request to the city council approving and authorizing the installation and/or construction of a water utility extension(s) or water system improvements, the developer, property owner, or other entity that installed and/or constructed such water utility extension(s) or water system improvements, or proposes to install and/or construct water utility extension(s) or water system improvements shall submit to the public works director a specific request (a latecomer agreement form created by the development review committee) to establish a water surcharge fee.

D. The public works director may require additional information from the developer, property owner, or other entity requesting the establishment of such water surcharge fee. The director may also deny the request to establish the water surcharge fee, or establish a different amount of water surcharge fee, other than the fee calculated in the standard latecomer agreement form. If a water surcharge fee is approved, the director may impose other conditions, limitations, and/or duration for said water surcharge fee.

E. The purpose of establishing such water surcharge fees is to reimburse developers, property owners, or other entities, that installed and/or constructed water utility extension(s) or water system improvements, for a portion of their costs for the installation and/or construction of water utility extension(s) or water system improvements, for which subsequent, non-participating future customers benefit. The city shall collect established surcharges, from such non-participating future customers, at the time water capacity charges are paid, and then reimburse the surcharge(s) to the developer, property owner or other entity that installed and/or constructed such water utility extension(s) or water system improvements, for which such surcharge(s) was established.

F. Such water surcharge fees shall be in addition to any other charges that may be applicable.

13.12.170 Annual review.

The revenue generated as a result of this ordinance shall be reviewed annually and compared to expectations and sufficiency, with a report to the city council.

13.12.180 Effective date.

The effective date of this ordinance shall be the _____, 2011.

PASSED by the city council of the city of Chehalis, Washington, and **APPROVED** by its mayor, at a regularly scheduled open public meeting thereof this ____ day of _____, 2011.

Mayor

Attest:

City Clerk

Approved as to form and content:

City Attorney

ORDINANCE NO. 866-B

AN ORDINANCE OF THE CITY OF CHEHALIS, WASHINGTON, PROVIDING FOR THE OPERATION AND REGULATION OF THE PUBLIC WATER SYSTEM OF THE CITY; REGULATING THE CONSTRUCTION, INSTALLATION, USE, AND MAINTENANCE OF PUBLIC AND PRIVATE WATER SERVICE LINES; AUTHORIZING RATES AND CHARGES FOR WATER SERVICE CONNECTIONS; PROVIDING FOR LIENS FOR UNPAID CHARGES AND THE ENFORCEMENT AND FORECLOSURE THEREOF; REPEALING ORDINANCE NO. 695-B, PASSED THE 13TH DAY OF AUGUST, 2001; AND ORDINANCE NO. 741-B, PASSED THE 14TH DAY OF APRIL, 2003, CODIFIED IN THE CHEHALIS MUNICIPAL CODE AS CHAPTER 13.04; AND ESTABLISHING THE EFFECTIVE DATE HEREOF.

THE CITY COUNCIL OF THE CITY OF CHEHALIS, WASHINGTON, DO ORDAIN AS FOLLOWS:

13.04.010 Definitions.

The following words or phrases shall have the meanings set forth for the purposes of this ordinance:

"Agreement" means all agreements for service, installations, meters, and special service made with any person, firm, or corporation, or the authorized agents thereof.

"Applicant" means any person, firm, or corporation applying for water service or any other connection to the city water system.

"CCF" means one hundred cubic feet (approximately seven hundred forty-eight gallons).

"Connection" means any physical connection to the city water system by any water service or any private water system or any pipeline extension.

"Cost" means the cost of labor, material, transportation, supervision, engineering, and all other necessary expenses as determined by the city.

"County" means Lewis County, Washington.

"Cross-connection" means any connection between any part of the water system used or intended to supply water for drinking purposes and any source or system containing water or substance that is not or cannot be approved as safe, wholesome, and potable for human consumption, or any interconnection to another source or system that has not been approved by the public works director on or after the date of adoption of this ordinance.

"Customer" means any person, firm, or corporation obtaining or using water service from the water system of the city.

"Equivalent residential unit (ERU)" means or refers to a unit of water capacity determined by the city to be equivalent to the capacity (or average capacity) typically used by, or allocated to a single-family residential dwelling unit. For the purposes of this ordinance an ERU of water capacity shall be equal to three hundred gallons per day of water use as determined through the standard water billing process.

"Fire protection service, private" means water service and facilities for building sprinkler systems, hydrants, hose reels, and other facilities installed on private property for fire protection and the water available therefor.

"Fire protection service, public" means the service and facilities of the entire water supply storage and distribution system of the city, including the fire hydrants affixed thereto, and the water available for fire protection, excepting house service connections and appurtenances thereto.

"Mains" means a water line designed or used to serve more than one premises. Mains

and connections to mains are controlled by the city.

"Multiple dwelling units" means duplexes, apartment buildings, condominiums, mobile home parks, trailer courts, multiple unit commercial structures, and other multiple unit structures or buildings.

"Person" means natural persons of either sex, associations, partnerships, and corporations, whether acting by themselves or by a servant, agent, or employee, the singular number to be construed to include the plural and the masculine pronoun to include the feminine.

"Public Works Director" shall mean public works director or designee.

"Premises" means a private home, building, apartment house, condominium, trailer court, mobile home park, a group of adjacent buildings, or property utilized under one ownership and under a single control with respect to the use of water and responsibility for payment thereof.

"Service, commercial" means water services to businesses engaged in the manufacture and/or sale of a commodity or commodities or the rendering of a service, hotels, motels, schools, hospitals, multiple dwelling units and public office buildings.

"Service, industrial" means a water service to a business enterprise engaged in the manufacture of products, materials, equipment, machinery, and supplies or commodities on a substantial or major scale.

"Service, residential" means a water service to a single-family dwelling unit or a water service for residential lawn sprinkling.

"Service, temporary" means a water service and facilities rendered for construction work and other uses of limited duration and the water available therefor.

"Service charges" means fees, costs, rates, and charges for water services established and set by ordinance.

"Service installation" means all piping and fittings from the main to and including the water meter assembly. All piping and fittings from the meter to the premises served shall be the customer's responsibility.

"System" means all water source and supply facilities, transmission lines, storage facilities, pumping plants, distribution mains, and appurtenances.

"System, private" means a water system, or pipelines and appurtenances, pumping facilities, reservoirs, treatment facilities, or any combination thereof that are owned by other than the city.

13.04.020 Application for connection.

A. Each premises shall have separate water service or services as set forth in CMC 13.04.060, Water services for premises. Any person desiring water service for any premises shall make application therefor on a printed form furnished by the city for that purpose. The application form shall contain the following information:

1. Name and address of applicant;
2. Location and legal description of premises where water service is requested;
3. Purpose for which the water is to be used;
4. Number of living units within the premises to be supplied;
5. Statement that the applicant agrees to abide by the rules and regulations contained herein and agreements contained in the application;
6. Signature of owner of premises or his duly authorized representative or agent;
7. Date signed; and
8. Such additional information as the public works director shall require.

B. Applicants for service within the corporate limits of the city may be required to obtain a building or plumbing permit for the premises where water service is being requested.

C. Applicants for service outside the corporate limits of the city shall provide required information, comply with city annexation agreement requirements, and sign an agreement stating that they will not oppose annexation of the area including the premises for which service is being applied.

D. If no public sewer service is available to any premises for which application for water service is made, approval of the application shall be conditioned upon the applicant obtaining a septic tank permit from the Lewis County health district, and no connection shall be made if such septic tank permit is not issued.

E. When all applicable fees and charges have been paid, the approved application shall constitute an agreement whereby the applicant agrees, as a condition for the continued use of water, to conform to rules and regulations of the city as contained in or attached to the application provided for in this chapter, or any amendment hereto.

F. The application for water service shall contain an agreement requiring the person making the same to pay for the water applied for at the rates and in the manner specified by city ordinance; reserving unto the city the right to charge and collect the rates and to enforce the penalties provided in city ordinance and to change the rates by ordinance at any time; allowing the city to temporarily discontinue the service at any time without notice to the customer; and specifying that said agreement is subject to all the provisions of this chapter and of any ordinance of the city relating to the public water system of the city. The agreement shall provide that the city shall not be held responsible for any damage by water or other cause resulting from defective plumbing or appliances on the premises supplied with water installed by the owner or occupant of such premises, and shall provide that in the event the supply of water shall be interrupted or fail by reason of accident or any other cause whatsoever, the city shall not be liable for damages for such interruptions or failures, nor shall such failures or interruptions for any reasonable period of time be held to constitute a breach of agreement on the part of the city or in any way relieve the customer from performing the obligations of his agreement. The city shall not be held liable for damage to personal property stored in the portion of the street between the curb and the property line, nor to real property in said area, resulting from leakage or the breaking of pipes or appliances maintained by the city within that portion of the street herein described. All agreements contained in the application shall take effect from the date the application is approved by the public works director. If for any reason the public works director does not approve an application requiring his approval, the public works director shall explain the reason for disapproval in writing at the request of the applicant, and no conditions or agreements shall be in effect.

13.04.030 Developer connection fee/capacity charge payment.

A. Owners and/or developers of all commercial property shall be required to pay all connection fees and capacity charges in accordance with the current ordinance within six months of the date the application has been approved. If all capacity charges, connection fees, and any other fees identified on the application are not paid within six months of the date of approval of the application, the application and any approval shall be considered void. All such fees and charges shall be paid prior to any physical connection or installation of facilities and no service shall be delivered or provided until such fees are paid. Such charge and/or fees shall be

non-refundable.

B. Owners and/or developers of residential property that have applied for water connections for up to, but not exceeding, ten single-family residences or ten ERUs, shall be required to pay all connection fees and capacity charges in accordance with current ordinance within six months of the date the application has been approved. If all capacity charges, connection fees, and any other fees identified on the application are not paid within six months of the date of approval of the application, the application and any approval shall be considered void. All such fees and charges shall be paid prior to any physical connection or installation of facilities and no service shall be delivered or provided until all such fees are paid. Such charges and/or fees shall be non-refundable.

C. Owners and/or developers of residential property that have applied for water connections for a capacity for greater than ten single-family residential units or greater than ten ERUs where such projects are to be constructed in phases over a period of time, must specifically request and receive approval for a time period or duration in excess of six months.

D. If approval is given for a duration in excess of six months, then the owner or developer of such residential property shall be required to pay one quarter of the total connection fees and capacity charges for the entire development project. This twenty-five percent shall be non-refundable in the event that any such development or project is canceled, and this twenty-five percent shall also be considered as the connection fees and capacity charges for the last twenty-five percent of such costs for the development. Prior to actually connecting any single-family residential unit or other units for which the equivalent residential capacity has been requested, approved, and allocated, the connection fees and capacity charge must be paid in full.

13.04.040 Connection to the city's main.

A. After payment of all connection fees, capacity charges, service charges, and any other applicable fees and charges, and the execution of the agreement herein described, the public works director shall cause the premises described in the application, if the same abut upon a street in which there is a city water main, to be connected to the city's water main by a service pipe extending at right angles from the main to the property line except as herein provided. The city connection, which shall include a stopcock placed within the curb line and the meter set assembly in conformance to city specifications, shall be maintained by and kept within the exclusive control of the city.

B. Wherever it has been ascertained that a retaining wall, ornamental wall, or landscaped rockery, or any other form of permanent structure is to be or has been erected upon any portion of a city street or public place in which a water service connection has been installed, the public works director shall cause the relocation or readjustment of such water service connection or any portion thereof. The cost of such relocation or readjustment shall be charged against the property on which the erection of the permanent structure, as above referred to, is to be done or has been done and to the owner thereof. In no case shall the city be required to maintain or repair any portion of the service connection beyond the meter set assembly.

C. Where there is a water main in front of any premises the owner of such premises supplied by city water shall have his own separate service connection with the city main and the premises so supplied shall not supply water to any other premises. If two or more premises are supplied by one metered service, service charges for each premises supplied with water shall be assessed for each separate building or premises so supplied. Services existing as of the effective date of this ordinance shall be separated at such time as the owner or occupant thereof shall obtain a building permit for the remodeling or structural alteration of such premises.

13.04.050 Maintenance or continuance of water capacity.

A. In order for any commercial and/or industrial customer served by the city water system to maintain capacity that has been previously allocated to said commercial and/or industrial customer, such customer must demonstrate use of water capacity that has been previously allocated in accordance with the provisions of this ordinance.

B. If a commercial and/or industrial water customer has reduced its water usage as defined in this ordinance, the city shall notify said commercial and/or industrial water customer in accordance with this section and reduce the amount of water capacity allocated to such commercial and/or industrial customer, in accordance with this section.

C. In order for a commercial and/or industrial customer receiving service from the city water utility to maintain or hold water capacity as may have been previously allocated, such commercial and/or industrial customer must use a minimum of 80 percent of the total water capacity for at least four consecutive months in any 12-month period.

D. If any commercial and/or industrial customer fails to use 80 percent of the previously allocated capacity for four consecutive months in any 12-month period, the water capacity allocated to that commercial and/or industrial customer shall be determined as follows:

1. The lowest usage in the highest consecutive four-month period shall be 80 percent of the new allocated water capacity for any such commercial and/or industrial customer.

2. If the city reduces the allocation of water capacity from the quantity that was originally purchased from the city, the city shall refund that portion of the amount of actual capacity charges paid by the commercial and/or industrial customer that relates to the amount of capacity reduced.

E. In order for a commercial and/or industrial customer to maintain their allocation of water capacity, after it has been determined by the city that a reduction in their allocation of such capacity is warranted, said commercial and/or industrial customer shall pay a capacity maintenance charge per month, in addition to their regular water use rate fees and charges. Such capacity maintenance charges shall be calculated by multiplying the number of ERUs of water capacity that the city has determined warrants reduction, by the current minimum monthly service capital improvement charges for water.

F. During any three months in a 12-month period, if any commercial and/or industrial customer has been identified as using one ERU or greater of water capacity above the amount of capacity that has been allocated and if there is unallocated water capacity available, the city shall charge such commercial and/or industrial customer the current capacity costs or charges for such increased capacity. If there is no unallocated capacity available the city shall instruct the commercial and/or industrial customer to reduce usage to the level of capacity that has been allocated. If said instructed commercial and/or industrial customer does not reduce water usage to the level of allocated capacity the city shall take action(s) necessary to cause the capacity used to be reduced to the allocated level. Such action(s) may include imposing restrictions or limitations to such water service or disconnection of water service.

G. If capacity is available, the highest usage above the previously allocated capacity shall be the new allocated water capacity for any such commercial and/or industrial customer upon approval of the city council (if required) and upon payment of the associated water capacity charges.

H. The public works director shall conduct an initial evaluation of water use to determine allocated capacity of water for all existing commercial and/or industrial customers. On an annual basis the public works director shall review the water use for such commercial and/or industrial customers to identify such customers that have used less than or more than their allocated capacity.

I. If it is determined that the capacity allocated to any commercial and/or industrial

customer warrants reduction in accordance with this section, the city shall provide written notice to said commercial and/or industrial customer indicating the city's intention to adjust or reduce the water capacity allocation.

J. If it is determined that the capacity allocated to any commercial and/or industrial customer warrants an increase in accordance with the provisions of this section, or if it is determined that any commercial and/or industrial customer has used greater than the allocated capacity of water service, and such additional water service is unavailable the city shall provide written notice to said commercial and/or industrial customer indicating the city's intention to adjust or increase or restrict to the allocated capacity the water capacity allocation.

K. The notice shall provide a 30-day comment period prior to the implementation of any such adjustment or reduction of their capacity allocation. The public works director shall review and consider any comments received during this 30-day comment period prior to making a final determination on any such adjustment or reduction of their capacity allocation.

L. Should the public works director determine that the water capacity warrants being increased and should the city approve such increase, payment of the related capacity charges shall be due within 10 days of the date of the final determination notice. If such capacity charges are not paid within this 10-day period the city shall take such action(s) necessary to cause the capacity used to be reduced to the previously allocated level. Such action(s) may include imposing restrictions or limitations to such water service or disconnection of water service.

13.04.060 Water services for premises.

Each premises shall have a separate water service or services. All water services shall be metered. Premises containing multiple dwelling units and/or containing more than one commercial or industrial business shall have separate metered water service for each individual dwelling unit and/or commercial or industrial unit, except where situations and/or special conditions exist that make an individual service for each unit impossible or unfeasible at the discretion of the public works director who shall determine when such situations or conditions prohibit individual services.

13.04.070 Cross-connections.

The city follows the procedures to enforce the cross-connection code using: Washington State Standards for Cross-Connections (WAC 246-290-490), the city of Chehalis Cross-Connection Control Plan, Manual of Cross-Connection Control Published by The University of Southern California (USC MANUAL), and Cross-Connection Control Manual Published by the Pacific Northwest Section of the American Water Works Association (PNWS-AWWA) as they presently exist and as they may, from time to time, be amended.

A. The city requires that all water service connections (domestic potable water, fire sprinkler systems, or irrigation systems); existing and future connections follow the guidelines of the city's cross-connection control plan. Any such cross-connection existing hereinafter is hereby declared unlawful and shall be disconnected and removed immediately. The cross-connection control specialist (CCS) or any designated representative of the city may limit the kind and number of service connections for any separate premises. No water service connection shall be allowed from the city water mains to any premises supplied by water from any other source unless the public works director gives special permission and that the connection is protected with an appropriate backflow assembly approved by the CCS.

B. When a cross-connection is found, an approved backflow prevention assembly(s) will be installed at the expense of the user, and the user will be required to follow the city's cross-connection control plan where a premises isolation backflow assembly will be installed. In-premises installation of a backflow assembly can be installed only with written permission by the CCS or mandated along with premises isolation when the CCS or any designated representative

of the city and any other regulatory agencies determine a high health hazard exist, in accordance to WAC 246-290-490 and the city's cross-connection control plan. The backflow prevention assembly(s) once installed will be inspected and approved by the city and tested by a state certified backflow assembly tester (BAT). The public works department requires a certified test indicating the assembly(s) has passed before releasing the certificate of occupancy on any building.

C. Backflow prevention assembly(s) installed will be of a type and model pre-approved by the Department of Health (DOH) or the city and will be installed, inspected, and tested in accordance to the city's cross-connection control plan. The city will have the authority to perform regular inspections on all backflow assembly(s) (premises and in-premises) connected to the city's water system and will be provided access to the premises to inspect.

D. New water services will be required to install a residential dual check device immediately downstream of the water meter. Installation of this residential dual check device on a retrofit basis on existing service lines will be instituted at a time and at a potential cost to the homeowner as deemed necessary by the city.

E. The city will notify the service customer that an annual test of the backflow prevention assembly(s) is required not less than 30 days before such annual test is required.

F. Backflow assembly testers (BAT) shall supply the city with documentation indicating their testing equipment has a current certificate of accuracy and that they have a current Department of Health BAT certification card. This information must be submitted on an annual basis as indicated in the city's cross-connection control plan.

G. Violations.

1. Violations by customer.

a. It is a violation of the cross-connection control plan for a customer to:

- i. Fail to correct a faulty cross-connection within seven days of discovery of the problem;
- ii. Fail to install, test, or maintain a backflow prevention assembly or premise isolation, as required by the cross-connection control plan;
- iii. Remove or bypass a backflow prevention assembly(s);
- iv. Refuse to allow a designated city representative access to any structure serviced by the public water supply for inspection.

b. Violations by a customer subject the customer to termination of service by the city. Service shall not resume until the customer;

i. Repairs the violation so that the cross-connection is in compliance with the city's cross-connection control plan as determined by the city; and

ii. Makes payment to the city for:

- (1) Its expenses incurred for inspection and enforcement of the plan, including attorney fees; and
- (2) Any penalties, as specified in this code.

2. Violations by certified backflow assembly testers.

a. It is a violation of the cross-connection control plan for a backflow assembly tester (BAT) to:

i. Intentionally or negligently file forms containing false data, including but not limited to data not derived from actual testing.

b. A violation by a backflow assembly tester may subject the BAT to:

- i. Penalties as specified in this code; and/or
- ii. Reporting by the city to the Washington Certification Board with a recommendation of license revocation.

H. Penalties.

1. Penalties for violations by customer, per subsection (G)(1) of this section.
 - a. 1st violation - \$200.00
 - b. 2nd violation - \$500.00
 - c. 3rd violation - \$1,000.00
 - d. Fee to restore water service - \$50.00
2. Penalties for violations by backflow assembly tester, per subsection (G)(2) of this section.
 - a. 1st violation - \$1,000.00
 - b. 2nd violation - \$2,000.00
 - c. 3rd violation - \$5,000.00.

13.04.080 Private pipe standards.

All persons connecting to city service or laying their own private pipe shall be required to use pipe of sufficient strength and quality, and the installation shall be done in such a manner so that breaks, leaks, and freezing are avoided, and contacts with contaminants are not possible. In all permanent sprinkler systems or other systems where contamination or cross-connections are possible, an approved backflow prevention device shall be installed. The public works director shall maintain private services from city mains in streets that are being graded and shall have access on private property as shall be necessary to maintain such pipes during the work, and shall as soon as practicable upon the completion of such work, relay such pipes in the street. Except for the above cause, owners shall maintain their private pipes from the end of the city's service to and into their property, or, in the event the public works director finds it necessary to maintain the same, the owner shall relinquish all right in said pipes. When necessary, the public works director may slope service on property to conform to the slope occasioned by the grading of the street and charge the expense thereof to the owner of the service.

13.04.090 Water services meter location.

All water service connections shall be made by, or under the control of the city. Meters shall be placed as follows:

A. Within the corporation limits of the city, meters shall be placed within two feet of the edge of the sidewalk or proposed sidewalk on the curb side in existing plats and within two feet of the sidewalk on the property side in new plats.

B. Within the county, meters shall be placed within the county right-of-way and within two feet of the property line nearest the customer's premises.

C. In instances other than contained herein, or where the public works director determines that unusual or conflicting conditions exist, the location of meters shall be determined by the public works director.

13.04.100 Service connection-Special conditions.

When two or more premises are being serviced by one water service connection, the city shall have the right to require the installation of additional water service connections from the water main to the premises. When additional water service connections are provided for any premises, all water service shall be metered and installed in an approved manner. No premises shall be permitted to furnish water to any other premises, except during an emergency, which shall not exceed a period of 30 days. An application to cover the emergency connection shall be filed with the city within 48 hours of the occurrence causing the emergency. When the intended use of the water service is changed or the structure served is altered, a new service shall be installed at the customer's expense unless the existing service complies with the provisions hereof.

13.04.110 Water service connection fees and charges.

Water connection shall be made by and under the control of the city after an application for same has been approved by the city and payment of all water service connection/capacity fees, installation charges, and any other applicable fees and charges as required by city ordinance and/or city council approved and established late-comer fee agreement(s) has been made. All water capacity charges received shall be considered capital revenue of the city.

13.04.120 Service connection--Location of service pipe.

Water service pipe shall not be laid or maintained parallel with and within five feet horizontally of any sanitary sewer, electrical conduit, gas pipe, or communications cable, septic tank, or drain field. When additional water pipe extensions or replacements are to be made beneath the surface of the ground within the premises and connected with existing water service pipes between the meter and the premises, an application therefor shall be made to the city for inspection and approval prior to backfilling the trenches.

13.04.130 Customer shut-off valve.

Shut-off valves of approved full flow pattern with key or hand wheel shall be installed in the water service pipe leading from the city meter to the building within the premises served in accordance with the applicable plumbing code. Shut-off valves, where buried, shall be properly enclosed in a minimum six-inch diameter pipe, or box of concrete, plastic, or iron with an approved cover, protected from freezing and readily accessible. Valves or customer owned equipment are not permitted to be installed within the city's meter box. No outlet shall be connected to the service extension pipe between the city meter and the customer shut-off valve.

13.04.140 Plumbing requirements.

All persons installing fixtures or appliances to be supplied with water from the city main shall be subject to the requirements of the Uniform Plumbing Code. Persons installing plumbing in new structures shall leave the valve at the meter in the "off" position upon completion of their work. Persons making additions or repairs to existing plumbing systems shall leave the valve at the meter in the position in which it was found in beginning their work. The public works director shall have the right to refuse service or discontinue service in any situation where it is discovered that applicable city standards have not been complied with in making the installation.

13.04.150 Inspection and access for inspection.

Authorized employees of the city, properly identified, shall have access at reasonable times of the day to all parts of the premises or within buildings thereon to which water is supplied from city mains, for the purpose of checking conformity to these regulations, provided, such employees shall have access to single-family residential premises only upon a showing of probable cause to believe that the water service or plumbing therein is not in conformity with these regulations. Whenever the owner or occupant of any premises supplied by city water restrains authorized city employees from making such necessary inspections, water service may be refused or discontinued.

13.04.160 Turn-on-New installation.

When new water service connections are installed by the city for any premises, the valve at the meter shall be turned to the "off" position and remain off until a turn-on order shall be issued by the public works director upon written application therefor by the owner of the premises to be supplied after inspection and approval by the city and after the proper plumbing inspection has been performed and a certificate issued that all provisions of the Uniform

Plumbing Code have been complied with.

13.04.170 Turn-on-Request.

When it is desired to have the water turned on after it has been turned off for any reason, the turn-on shall be made upon receipt of a written application or verbal request by the city, provided all service charges, including any penalties owed at the time of the request, or receipt of the written application have been paid, the city may require that conditions set forth in section 13.04.160, turn on--new installation, apply. The customer shall also be charged for a service call as required by section 13.04.200, Service call.

13.04.180 Turn-on unauthorized.

It shall be unlawful for any person, except duly authorized employees of the city to turn on the water supply to any premises after a turn-off is made at the meter by the city. The water service pipe to any premises turned on by an unauthorized person after said water supply has been turned off by the city for cause may, upon discovery, be disconnected by the city from the water main in the street and shall not be connected again until violations of these rules and regulations have been corrected and all expenses incurred by the city relating to disconnecting and reconnecting the service pipe are paid.

13.04.190 Turn-off, turn-on liability disclaimer.

The city shall not be liable for any damage to person or property that may result from the turn-off or turn-on of the water service or from the service being left on when the premises may be unoccupied.

13.04.200 Service call.

A. Service calls, for any reason, including but not limited to, convenience or emergency turn-off or turn-on, paid delinquent account turn-on, or complaint leaks, or other problems due to trouble in lines not owned by the city, or problems in lines, valves, or meters owned by the city, caused by problems or conditions other than by the city, may be charged to the customer requesting the service call at the appropriate rate as provided in city ordinance. The amount charged for the service call shall be billed to the customer as a separate charge and shall be due and payable within seven days after the date of the bill. Section 13.04.500, delinquency/lien, shall apply when any service call charges become delinquent and unpaid.

B. Service calls, when it is determined by the city that the problem or trouble is in lines, valves, meters, or facilities owned by the city, will result in no charge to the customer.

13.04.210 Responsibility for water service rate charge.

All accounts for water shall be kept in the name of the owner of the premises for which service is installed unless the property owner requests to have statements for service rate charges mailed to a tenant, lessee, or agent, but such mailing shall not relieve the property owner from liability for payment of water service rate charges incurred.

13.04.220 Customer service water leak adjustment.

A. Any water customer of the city may receive a maximum of one utility bill adjustment per year based upon unexpected leaks or breakdowns of customer plumbing, subject to acceptable review and acceptance of their adjustment request by the city. The maximum adjustment period for residential customers shall be one residential billing cycle (two months). The maximum adjustment period for commercial customers of the city shall be two one-month billing cycles.

B. All requests for utility bill leak adjustments shall be made in writing to the public

works director. The request for adjustment must contain the name and address of the utility customer, justification for the leak adjustment, information regarding what repairs have been made to correct the customer problem giving rise to the need for adjustment, and must be signed by the party making request for adjustment.

C. The public works director shall review the application for adjustment, seek additional information if it is deemed necessary to make a decision regarding the adjustment, and provide to the customer an acceptance or rejection of the adjustment request within 10 days of actual receipt of the written request for adjustment. Should the utility bill leak adjustment be authorized by the public works director, the adjustment shall reflect the previous year's usage during the billing cycle wherein the adjustment is sought, or if there is no previous year's usage record, the bill will be adjusted to equal the billing amount of the customer's previous billing cycle.

D. Any appeals from decisions of the public works director regarding the rejection or amount of adjustment granted under the terms of this ordinance shall be made directly to the city manager. Said appeal must be in writing and filed with the city manager within 10 days of receipt of the decision of the public works director. Failure to abide by these procedural requirements will render public works director's decision final.

E. Utility bill adjustments shall not be granted if the property owner, after notification by the city, refuses to make repairs in a timely manner or isolate the leak to prevent continued water loss from the city's water system.

13.04.230 Inactive water service-Inactive water service utility account.

In order for a water service and its associated water service utility account to remain active and continue to be authorized to receive water service, water utility bills must be paid. Even if the water service is inactive and no water consumption occurs during a billing period, water service capital improvement rate charges as established by ordinance must be paid. When any service is turned off for nonpayment of water utility bills for a period of four months, the water service utility account shall become inactive and it shall be subject to termination and the water service shall be subject to disconnection and removal of the water meter at the discretion of the public works director.

13.04.240 Reactivation of inactive water service.

A. If any single-family residential unit water service has been inactive and the associated water service account has been terminated, the owner of said single-family residential unit may request reinstatement of the water service and water service account if:

1. There is sufficient capacity of water service available;
2. There is no moratorium or prohibition to such reactivation of single-family residential unit;
3. The owner pays the lesser of either the current connection/capacity charges for such water service, or back (or unpaid) water service capital improvement rate charges for water service. Back charges shall be equal to the total current water service capital improvement rate charges for the minimum residential water service multiplied by the total number of months that the water service has been in an inactive status and/or for the period of months that such capital improvement rate charges have not been paid; and
4. The owner pays all costs associated with the installation or reinstallation of water services and any other improvements or modifications necessary to provide such water service. The amount of such installation charges shall not exceed water service installation charges in effect at the time of the request to reactivate the services made.
5. All applicable fees and charges have been paid as established by the Storm and Surface Water and the Sewer System Ordinances.

B. In order for any commercial water service or multiple ERU water service or account, which has been inactive and/or terminated to be reactivated, it must meet the following conditions:

1. There is sufficient capacity of water service available;
2. There is no moratorium or prohibition to such reactivation of water service;
3. The owner or persons requesting activation of such water service pays the lesser of either the current connection/capacity charges per ERU or back (or unpaid) water service capital improvement rate charges for the minimum commercial water service multiplied by the total number of months that the water service has been in an inactive status and/or for the period of months that such capital improvement rate charges have not been paid; and
4. The property owner or person requesting reactivation of such commercial or multiple ERU water service shall pay the water meter service installation charges or any or all charges or costs necessary to provide a water meter service installation then in effect.
5. All applicable fees and charges have been paid as established by the Storm and Surface Water and the Sewer system Ordinances.

13.04.250 Construction or repairs-Report.

It shall be the responsibility of the building official to report to the public works director the beginning of construction or repairs to all buildings in the city, which report shall contain a general description of the building to be constructed or repaired, the name of the owner and contractor thereof, and the address thereof. Water for construction purposes shall only be furnished upon application of the owner of the premises, or his authorized agent. Water for construction purposes shall be furnished by meter and charged to the owner of the premises supplied.

13.04.260 Disconnection of service-Condemned building.

Whenever a building or premises supplied with water has been found by the proper authorities to be dangerous to human life and unfit for human habitation, and notice of such findings has been provided to the public works director by said authorities, the public works director shall cause the water service to such premises to be turned off. Water service to such premises shall not be turned on until the owner and/or agent has secured a release or clearance from the proper authorities.

13.04.270 Disconnection of service-Demolished or removed building.

Whenever a building or structure supplied with water has been proposed by the owner to be demolished or removed, the owner and/or agent of the property shall notify the city of such proposed actions a minimum of seventy-two hours prior to the anticipated date when the building will be demolished or removed. The public works director shall then cause the water service to such premises to be turned off prior to the demolition or building removal. Water service to such premises shall not be turned on until the owner and/or agent has demonstrated that there are no plumbing problems associated with the premises and waterlines connected to the water service, and until the owner and/or agent has requested that the water service be turned on.

13.04.280 Meter ownership.

All meters provided and installed on water service connections by the city shall be and remain the property of the city.

13.04.290 Meters--Commercial and industrial-Change in meter service size.

Whenever the owner of any premises, with an existing water meter service, desires to change a meter service size, an application shall be made to the city and, upon approval by the public works director; the new meter service shall be installed at the expense of the owner. No credit shall be given for the existing meter service. Unless the application specifically requests a greater or lesser allocation of water capacity and, in the case of requests for more capacity, such application is approved by the public works director, no change in the water capacity allocation to the premises shall result from the change in meter service size.

13.04.300 Meter maintenance and repair.

A. The city shall maintain and repair all service meters and replace meters periodically when necessary if rendered unserviceable by ordinary use. Where replacement or repair to any meter is necessary by reason of the neglect, carelessness, or willful act of the owner or occupant of the premises served, all expenses of such replacement or repair incurred by the city shall be borne by the owner of the premises.

B. Whenever demand periodically exceeds the rated capacity of a meter to the extent that the meter may be damaged, the city shall notify the owner. After evaluating the owner's requirements, the public works director shall advise the owner what meter service size is necessary to give proper service without risking potential damage to the meter and the estimate of the cost to install the larger meter service. The city shall then install the proper size meter service and charge the full cost thereof to the owner. If the owner does not pay the cost to install the larger meter service within thirty days after being billed for said cost, then the city shall terminate the water service. If the owner fails to pay the cost to install the larger meter service within thirty days after being billed, the city shall proceed to file a lien against the premises pursuant to section 13.04.500, delinquency/lien.

13.04.310 Meter tests.

A. When any customer makes a complaint that the water service charges for any period is excessive, the city shall, upon the customer's request, have the meter re-read and the water service pipes and plumbing fixtures on the premises inspected for leaks in the event that said actions are practicable and/or possible. The city may charge the customer for a service call in accordance with section 13.04.200, service call, for re-reading the meter and inspecting the premises.

B. Should the customer then request that the meter be tested for accuracy, they shall make a deposit, in the amount established by city ordinance.

13.04.320 Water service outside corporate limits.

All rules and regulations referring to the management of the city water system effective inside the corporate limits of the city shall apply equally outside the corporate limits except as otherwise specifically set forth herein.

13.04.330 Private water systems.

The city shall not operate and maintain private water distribution mains inside or outside the corporate limits of the city in conjunction with its own facilities. All private water systems existing in conjunction with city facilities shall be equipped with an approved check meter at the expense of the private water system, and the readings of such check meter shall be compared to readings of individual meters served by the private system to detect any discrepancies in water usage. All costs over and above those resulting from the water usage of customers on the private water system shall be borne by the owner and operator of the private water system.

13.04.340 Fire protection.

A. Any customer using city water for all purposes shall be entitled to a separate standby fire protection service. Such standby fire protection service shall be provided through a separate water connection. The water connection fee for such standby fire protection service shall be as provided in city ordinance. Standby fire protection lines shall be used for no other purpose than for standby fire protection service and all other uses thereof shall be prohibited. The monthly charge for such standby fire protection service shall be as provided in city ordinance. Such standby fire protection connection fees and standby fire protection service charges shall be based upon the size of the customer's line at its connection to the main, and shall not be based on any specific pressure or volume of water furnished to the customer. The city does not, by the connection of a standby fire protection service, and shall not, by agreement or otherwise, warrant or guarantee a minimum water pressure or water volume for such service.

B. Where standby fire protection service is provided, no charge shall be made for water used in extinguishing fires of incendiary or accidental origin if the customer at the location where the fire occurs gives written notice to the city within ten days from the time of such fire that a fire has occurred. Otherwise, a charge for all water used shall be made at the rate for use of fire protection facilities provided in city ordinance.

13.04.350 Fire protection meters.

A. Service of more than one premises by a fire service shall not be permitted. All water service connections used for fire protection shall be installed in a manner as approved by the public works director, and a metering device approved by the public works director shall be installed at the expense of the owner of the premises as follows:

1. Detect or check meters of size and type approved by the public works director shall be permitted on straight automatic fire sprinkler services, which may include hose racks inside the building for fire fighting purposes only. All water registered by the bypass meter shall be billed at the rate established by city ordinance, unless caused by fire reported within ten days. Persistent indication of unauthorized use of water through a detector check meter shall be cause for installation of a fireline meter at the expense of the owner or agent, or termination and disconnection of such fire protection service, at the discretion of the city.

2. Fireline meters of a size and type approved by the public works director shall be installed on all fire services where hydrants, outside hose outlets, or connections allowing the use of water for other purposes than the extinguishing of fires exist.

B. Delinquency in payment of expense for fire protection service or failure of the owner or occupant to make changes in meter installations as herein provided after reasonable notice from the department, shall be sufficient cause of discontinuance of fire service to the premises. Fire protection systems shall be installed and maintained by the owner in a manner approved by the public works director as to prevent backflow into the city's system.

13.04.360 Misuse of fire protection water.

Use of water from a fire protection service line or facilities for purposes other than extinguishing fires of incendiary or accidental origin, exclusive of that amount used for testing purposes, shall constitute misuse of fire protection water, and shall be grounds for the city to terminate fire protection service and disconnect the fire protection service line until such time as it is demonstrated to the satisfaction of the public works director that the misuse of fire protection water will not reoccur.

13.04.370 Hydrants-Authorized use.

No person other than authorized employees of the city shall operate fire hydrants and

hose outlets unless proper arrangements have been made for payment therefor and permission has been granted by the public works director.

13.04.380 Hydrants-Temporary use.

Persons desiring water service from a fire hydrant or hose connection shall make application therefor to the city at the public works department on an application form provided by the city. The applicant shall be required to submit a hydrant meter deposit of \$100.00 plus a non-refundable on/off fee of \$60.00. The applicant shall also sign the application form and agree to the provisions and requirements listed on the application form, and agree to pay the water use rate charges as established by city ordinance for water used through the hydrant meter assembly. If the hydrant meter assembly is damaged, the city shall retain the deposit or portion thereof necessary to replace or repair said hydrant meter assembly.

13.04.390 Damaging water system.

Any person causing damage to any property belonging to the city shall be liable to the city for any and all damages resulting either directly or indirectly therefrom.

13.04.400 Crime to damage or interfere with access to the water system.

No person shall disturb, break, deface, damage, or trespass upon any property belonging to or connected with the water system of the city in any manner whatsoever. No person shall store, maintain, or keep any goods, merchandise, materials, or rubbish within a distance of five feet or to interfere with the access or operation of any water meter, gate valve, fire hydrant, or any other appurtenances in use on any water service, connection, or water main.

13.04.410 Emergency interruption of service.

In the event of emergency or whenever the public health, safety, or the equitable distribution of water so demands, the public works director may authorize the city to change, reduce, or limit the time for or temporarily discontinue the use of water. Water service may be temporarily interrupted for purposes of making repairs, extensions, or doing other necessary work. Before so changing, reducing, limiting, or interrupting the use of water, the city shall notify, insofar as practicable, all water consumers affected. The city shall not be responsible for any damage resulting from interruption, change, or failure of the water supply. In addition, the city makes no commitment as to the volume of water available, pressure, or continuity of service; and will not be liable for injuries or damage due to insufficient volumes, inadequate pressure, or interruption of service.

13.04.420 Construction standards.

All persons, firms, corporations, and governmental agencies, and/or their contractors, repairing, replacing, installing, extending, or performing other work on water system lines, facilities, service lines, connections, and/or appurtenances thereto, or performing other work that may interfere, conflict, affect, or endanger the water system of the city shall follow and comply with the provisions of the engineering development code of the city as adopted by the city. Where the engineering development code of the city are silent on any construction standards issue, the current version of the Washington State Department of Transportation/Washington State Chapter of the American Public Works Association Standard Specifications for Road, Bridge, and Municipal Construction shall apply.

13.04.430 Miscellaneous control devices.

The city reserves the right to require any customer to install, as a condition of water service, a pressure reducing valve, backflow prevention device, pressure relief valve, and/or

similar devices, at any location where the public works director determines a need to protect the city's water system and/or facilities.

13.04.440 Protection of the public health.

The public works director shall conduct periodic inspections of the water system in coordination with the appropriate health department. The public works director shall, from time to time, suggest rules and regulations deemed necessary by him to the city council to protect the municipal fresh water supply from pollution.

13.04.450 Method of billing and payment.

Payment for water service, in accordance with the applicable provision(s) of city ordinance related to water rates, shall be due on the 20th day of the month. Water statements for residential services will be mailed to the customers on a bimonthly basis. Water statements for commercial services will be mailed to those customers on a monthly basis. All water statements are to be paid either by mail or in person to the city at the billing office. Unpaid statements become delinquent on the 21st day of the month, or at 5 p.m. on the next full business day, and a delinquency charge as established by city ordinance shall be added to each unpaid account. A delinquent notice shall be mailed and payment of the delinquent balance must be received within seven days of the date of the notice to avoid service interruption. On the next business day, a list of remaining delinquent accounts shall be compiled and the list given to the water superintendent, it shall be his duty to immediately thereafter shut off the water service to such delinquent premises.

13.04.460 Alternative method of payment.

A. Users of utility services provided by the city may, at their option, pay to the city at anytime prior to the billing date, as an advance payment, toward the actual or estimated utility service charges for water, sewer, and storm service to be billed for the month or next succeeding month during which such charges are incurred.

B. In the event the amount paid exceeds or is less than the actual service charges incurred, any excess amount paid in advance shall be credited to the next succeeding billing for utility service charges, and any amount not paid in advance shall be paid in full by the due date. All unpaid balances shall be considered delinquent and subject to delinquent fees and penalties as established by city ordinance.

13.04.470 Method of billing private water systems.

The total amount of water usage registered on the check meter shall be billed to the owner, operator, or owner's agent of the private water system, or at the discretion of the city, where the private line or system contains individual meters, the total amount of water usage registered on the check meter shall be billed to the individual customers of the private line or system by dividing the usage among the customers as the individual meters indicate to accommodate an equitable distribution of the total usage, unless where special conditions exist and/or specific arrangements have been made and a written contract that is mutually agreeable to both the city and the owner or operator of the private system. Such contract shall state any pertinent conditions and delineate responsibilities. The rates for billing such private water system's usage shall be in accordance with the provisions of city ordinance as applicable.

13.04.480 Charge for special improvements.

Where special improvements or upgrading projects have been installed and the costs or portion of the costs of such improvements are determined to be financed by user charges from the customers served, or by benefitting from such improvements, such customers shall be

responsible for an additional charge to be added to their water use charges and included in their water bill statement. The amount of this additional charge shall be as determined and established by the city council for the specific improvements or upgrading project. Such additional charge shall be to satisfy all debt service requirements and other related costs only.

13.04.490 Order for crediting incomplete utility bill payments.

When payment has been made for only part of the total amount owed on combined utility bill, or for any reason payment of the total amount(s) owed on a combined utility bill has not been made, the city shall satisfy or credit such partial or incomplete payments to or toward amounts owed for stormwater, sanitary sewer services, any delinquency charges, fines or penalties, and/or service charges that may be owing, prior to applying or crediting any portion on the amount paid toward charges owed for water service.

13.04.500 Delinquency/lien.

A. All water rates shall be charged against the premises for which the service was installed. Any and all charges provided for, when the same become delinquent and unpaid, shall constitute a lien against the premises to which the same has been furnished. Enforcement of a lien and collection of a lien shall include, but not be limited to, the right to stop service and deny service thereafter to any and all owners and/or occupants of the premises until the charges for service and/or other charges have been paid in full.

B. In cases where the occupant of the premises moves to another location within the system and applies for water at the new location, services shall be denied at such location until and unless any statement for service against the first location is fully paid.

C. If any such charges are not paid, the city may record a lien at the office of the county auditor against the property for which the service was installed. Such lien shall include the delinquent charges and such customer shall be responsible for all costs incurred by the city, including reasonable attorney's fees for preparing the lien and the fee for recording the lien.

D. Failure to receive mail will not be recognized as a valid excuse for failure to pay charges due. Notice of change in ownership of property and change in mailing address must be given in writing by the property owner or his agent to the city.

13.04.510 Driveway or crossing construction connection removal.

Whenever a driveway or crossing to be used for vehicular traffic is constructed within that portion of a city street lying between the curb line and the property line, the public works director shall cause the removal and relocation of any water service connection or any part thereof which may be within the lines of such driveway or crossing; provided, however, that instead of such removal of water service connection the public works director may, if he deems it advisable, cause the construction of an iron or masonry box or chamber of sufficient strength to withstand the stress of vehicular traffic. The cost of removal, relocation, or maintenance of water service connections as provided by city ordinance shall be charged against the property for which driveway or crossing was constructed and to the owner thereof.

13.04.520 Water main extension request.

When a person desires to extend a city water main, that person must make a written request to the city and state on that request the location where the extension is desired, the purpose for extension, and give details and extent of any development they are considering, as well as any other factors as may be pertinent. The public works director shall evaluate all requests for main extensions, taking into consideration the availability of water in the existing mains, reservoir capacity, pressures in the area, and other local conditions. If the proposal is acceptable, specific conditions and requirements will be determined by the public works director.

13.04.530 Water main extension design.

The proposed main extension shall be designed by a licensed engineer and be approved by the public works director and appropriate governmental authorities. The design shall be in conformance with city standards as contained in the engineering development code of the city, and shall be designed by the use of a hydraulic analysis, considering pipe size, restrictions, peak demand, length of run, elevation differences, and other factors that may be pertinent.

13.04.540 Water main extension installation.

The person requesting a main extension shall be responsible for all costs of installation, including the connection fee as provided in city ordinance. The person requesting the main extension shall also be charged a fee to pay the costs of the inspection performed by public works department personnel and/or city contracted engineering firm's inspector. The amount of the fee for inspections shall be determined after assessing the entire project. The extension shall be installed in accordance with city standards included in the engineering development code of the city, and shall be inspected by the public works department to ensure the installation meets city standards.

13.04.550 Appeal.

Except for provisions required by local, state, or federal regulations, or by law, any water customer or person applying for water who questions, disputes, or feels aggrieved by the determination or decision of the public works director may submit an appeal in writing to the development review committee as provided in CMC 17.09.150 – Appeals, stating the reasons for the appeal and providing information supporting the basis of the appeal.

13.04.560 Rules and regulations adopted.

Unless otherwise restricted or provided for herein or in the engineering development code of the city, the rules and regulations of the Washington State Board of Health and the Standard Specifications for Municipal Public Works Construction, as published by the Washington State Department of Transportation and the Washington State Chapter of the American Public Works Association, shall be, and the same hereby are, adopted by reference.

13.04.570 Violations and penalties.

Any person willfully violating any of the provisions of this ordinance shall be guilty of a misdemeanor. Any person found guilty of such violation shall be fined a sum not to exceed \$500.00.

13.04.580 Enforcement.

It shall be the duty of the employees of the public works department, police department, fire department, and community development department to give vigil and aid to the public works director in the enforcement of the provisions of this ordinance and to this end they shall report all violations thereof which come to their knowledge to the office of the public works director

13.04.590 Severability Clause.

If any section, subsection, subdivision, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional or void, such invalidity shall not thereby affect the validity of the remaining portions of this ordinance.

13.04.600 Repeal.

Ordinance No. 695-B, passed the 13th day of August, 2001; and Ordinance No. 741-B, passed the 14th day of April, 2003, codified in the Chehalis Municipal Code as Chapter 13.04,

shall be, and the same hereby is, repealed.

13.04.610 Effective date.

The effective date of this ordinance shall be the _____, 2011.

PASSED by the city council of the city of Chehalis, Washington, and **APPROVED** by its mayor, at a regularly scheduled open public meeting thereof this ____ day of _____, 2011.

Mayor

Attest:

City Clerk

Approved as to form and content:

City Attorney

ORDINANCE NO. 867-B

AN ORDINANCE OF THE CITY OF CHEHALIS, WASHINGTON, PROVIDING FOR THE OPERATION AND REGULATION OF THE PUBLIC SEWER SYSTEM OF THE CITY OF CHEHALIS; REGULATING THE CONSTRUCTION, INSTALLATION, USE AND MAINTENANCE OF PUBLIC AND PRIVATE SEWER SERVICE LINES; PROVIDING FOR LIENS FOR UNPAID CHARGES AND THE ENFORCEMENT AND FORECLOSURE THEREOF; REPEALING ORDINANCE NO. 696-B, PASSED THE 13TH DAY OF AUGUST, 2001; AND ORDINANCE NO. 737-B, PASSED THE 27TH DAY OF JANUARY, 2003; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF.

THE CITY COUNCIL OF THE CITY OF CHEHALIS, WASHINGTON, DO ORDAIN AS FOLLOWS:

13.08.010 Definitions.

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, 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 U.S.C. 1251 et seq.), as amended.

“AKART” means 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.” (RCW 90.48). 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 wastewater treatment plant. AKART includes best management practices and may be required by the public works director for any discharge to the wastewater treatment plant.

“Agreement” means all agreements for service, and special service made with any person, firm, or corporation, or the authorized deputy or agent thereof.

“Apartment” means any multiple-family dwelling having units with separate kitchen plumbing facilities.

“Applicable pretreatment standards” means for any specified pollutant: The more stringent of city prohibitive standards, city specific pretreatment standards (local limits), state of Washington pretreatment standards, or applicable National Categorical Pretreatment Standards.

“Applicant” means any person, firm, or corporation applying for sewer service or any other connection to the city sewer system.

“Authorized representative of the user” means:

1. If the user is a corporation:

a. 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

b. The manager of one or more manufacturing, production, or operation facilities, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

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

3. 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.

4. The individuals described in paragraphs A through C above 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.

"Biochemical oxygen demand (BOD)" means the quantity of oxygen, expressed in parts per million by weight, utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five days at a temperature of twenty degrees centigrade during five days. The laboratory determinations shall be made in accordance with procedures set forth in standard methods.

"Building drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the side sewer, beginning three feet outside the inner face of the building wall.

"Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.

"Categorical pretreatment standard" or "categorical standard" means any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

"Categorical user" means a user covered by one or more categorical standards as defined herein.

"City health officer" means the person or department designated with the responsibility to enforce and maintain health regulations of the city, county, and state. In the absence of an employee of the city designated with the title of city health officer the title and responsibility shall be delegated to the county health officer or county health department.

"Color" means the optical density at the visual wave length of maximum absorption, relative to distilled water. One-hundred percent transmittance is equivalent to zero optical density.

"Commercial building" means all buildings or premises used for any purpose other than a single dwelling unit, but not an industrial waste contributor.

"Commercial customer" means all businesses or premises used for any purpose other than a single dwelling unit, but not an industrial waste contributor.

"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.

"Connection" means any physical connection to the city sewer system by any sewer service or any private sewer system or any pipeline extension.

"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 ordinance, such waters are further divided into two subcategories:

1. 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.

2. 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.

"County" means Lewis County, Washington.

"Customer" means any person, business, property owner, sewer user, or other entity separately billed by the city for the use or availability of public sewers.

"Department of Ecology (DOE)" means the Washington State Department of Ecology or authorized representatives thereof.

"Domestic customer" means any residential customer whose sewage discharge consists of only sanitary wastes.

"Domestic user" means any person who contributes, causes, or allows the discharge of wastewater into the city wastewater treatment plant 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 one hundred 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 wastewater treatment plant.

"Domestic wastewater" means wastewater from residential kitchens, bath rooms, and laundries, and water borne 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 wastewater treatment plant, 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 wastewater treatment plant prior to the effective date of this ordinance.

"Garbage" means solid wastes from the preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

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

"Indirect discharge" or "discharge" means the introduction of pollutants into the wastewater treatment plant from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act. The discharge into the wastewater treatment plant 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 customer" means all sewer users which discharge an industrial waste.

"Industrial waste" means any flow discharged to the sewer facilities containing:

1. A total of more than thirty pounds of ammonia in any one day;
2. A total of more than thirty pounds of suspended solids in any one day;
3. A total of more than thirty pounds of BOD in any one day.

"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 ordinance.

"Interference" means the effect of a discharge or discharges on the wastewater treatment plant from one or more users which results in either:

1. Inhibition or disruption of the wastewater treatment plant, its treatment processes or operations, or its sludge processes, use, or disposal;
2. Violation of any permit regulating city wastewater discharge or sewerage sludge; or
3. 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.

"Multiple dwelling unit" means an occupied unit of an apartment building, duplex, triplex, condominium, mobile home park, trailer court, or other multiple structure or buildings where the building or complex may be served by a shared or common private sanitary sewer line or lines, side sewer, or other joint sewer facilities.

"Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.

"New source" means:

1. 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 wastewater treatment plant, and:

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

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

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

2. Construction of a new source as defined under this paragraph has commenced if the owner or operator has either:

a. Begun, or caused to begin any placement, assembly, or installation of facilities or equipment;

b. 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

c. 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 collection system after the effective date of this ordinance. 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.

"Parts per million" means a weight-to-weight ratio; the parts per million value multiplied by the factor 8.345 shall be equivalent to pounds per million gallons of water.

"Pass through" means a condition occurring when discharges from users, (singly or in combination), exit the wastewater treatment plant in quantities or concentrations which either:

1. Cause a violation of any requirement of a city NPDES or state waste discharge permit;

2. Cause an increase in the magnitude or duration of a violation; or

3. Cause a violation of any water quality standard for waters of the state promulgated under state regulations including Chapter 173-201A WAC.

"Permitee" 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" means 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 wastewater treatment plant 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.

"Premises" means a private home, building, apartment house, condominium, trailer court, mobile home park, a group of adjacent buildings or property utilized under one ownership and under a single control with respect to sewer service and responsibility for payment thereof.

"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 wastewater treatment plant. 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 RCW 90.48 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 listed in this ordinance applicable to the discharge of non-domestic wastes to the wastewater treatment plant. The term shall also include the prohibited discharge standards of this ordinance, WAC 173-216-060, and 40 CFR Part 403.5.

"Private system" means a sewer system, or pipelines and appurtenances, pumping facilities, treatment facilities, or any combination thereof that are owned by other than the city.

"Prohibited discharge standards" or "prohibited discharges" means absolute prohibitions against the discharge of certain substances as contained in this ordinance.

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

"Property owner" means the owner of record of the real property or lessor or other person that has been designated responsible by the owner or lessor.

"Public sewer" means a common sewer directly controlled by public authority.

"Public Works Director" shall mean public works director or designee.

"Sanitary sewer" means a sewer that conveys sewage or industrial wastes, or a combination of both, and into which stormwater, surface water, and groundwaters or unpolluted industrial wastes are not intentionally admitted.

"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.

"Service charges" means fees, costs, rates, and charges for sewer services.

"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 a pipe or conduit for conveying sewage or any other waste liquids, including stormwater, surface water, and groundwater drainage.

"Sewerage" means the system of sewers and appurtenances for the collection, transportation, and pumping of sewage and industrial wastes.

"Shall" defines a mandatory requirement. "May" is permissive.

"Side sewer" means the side sewer or lateral, including the wye, tee, saddle, or other device connecting the same to the public sewer, that is part of the horizontal piping of a drainage system that extends from the end of the building drain and receives the discharge of the building and conveys it to the public sewer.

"Significant industrial user (SIC)" means:

1. A user subject to categorical pretreatment standards; or
2. A user that:
 - a. Discharges an average of 25,000 gpd or more of process wastewater to the wastewater treatment plant (excluding sanitary, non-contact cooling, and boiler blowdown wastewater); or
 - b. Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the wastewater treatment plant; or
 - c. Is designated as such by DOE with input from the city on the basis that it alone, or in conjunction with other sources, has a reasonable potential for adversely affecting the wastewater treatment plant's operation or for violating any pretreatment standard or requirement.
3. Upon a finding that a user meeting the criteria in subsection B has no reasonable potential for adversely affecting the wastewater treatment plant's operation or for violating any applicable pretreatment standard or requirement, DOE may at any time, on its own initiative or in response to a petition received from a user or the city 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 non-compliance (SNC)" refers to a violation or pattern of violation of one of the following natures:

1. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six 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;
2. Technical review criteria (TRC) violations, defined here as those in which thirty-three 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];
3. Any other discharge violation that the city believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of city personnel or the general public);
4. Any discharge of pollutants that has caused imminent endangerment to human health, welfare or to the environment, or has resulted in the city's exercise of its emergency authority to halt or prevent such a discharge;
5. Failure to meet, within ninety 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;
6. Failure to provide within thirty days after the due date, any required reports, including baseline monitoring reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
7. Failure to accurately report non-compliance; or

8. 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 ordinance, 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.

"Standard methods" means the examination and analytical procedures set forth in the most recent edition of Standard Methods for the Examination of Water, Wastewater, and Industrial Wastes, published jointly by the American Public Health Association, the American Water Works Association, and the Federation of Sewage and Industrial Wastes Associations.

"State" means the state of Washington.

"Storm sewer" means a sewer that carries stormwater, surface water, and groundwater drainage, but excludes wastewater and industrial wastes.

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

"Stormwater runoff" means that portion of the rainfall that is not percolated or absorbed into the ground, flows along the surface is collected and/or drained into the sewers, ditches or other such facilities.

"Suspended solids" means solids that either float on the surface of, or are in suspension in water, wastewater, or other liquids, and which are removable by laboratory filtering.

"System" means all treatment facilities, collection lines, transmission lines, pumping plants, and appurtenances.

"Total suspended solids (TSS)" 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 EPA under Section 307 (33 U.S.C. 1317) of the Act.

"Treatment plant effluent" means the discharge from the city wastewater treatment plant.

"Unpolluted water or liquids" means any water or liquid containing none of the following: free or emulsified grease or oil; acids or alkalis; substances that may impart taste-and-odor or color characteristics; toxic or poisonous substances in suspension, colloidal state, or solution; odorous or otherwise obnoxious gases. It shall contain not more than thirty parts per million each of suspended solids or biochemical oxygen demand. Analytical determinations shall be made in accordance with procedures set forth in standard methods.

"Upset" means an exceptional incident in which there is unintentional and temporary non-compliance with applicable pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include non-compliance 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 wastewater treatment plant. This excludes domestic users as defined herein.

"Wastewater" (see Sewage).

"Wastewater discharge permit," "industrial wastewater discharge permit," or "discharge permit" means an authorization or equivalent control document issued by DOE to users discharging wastewater to the wastewater treatment plant. The permit may contain appropriate pretreatment standards and requirements as set forth in this ordinance.

"Wastewater treatment plant" means the treatment plant owned and operated by the city. Included in this definition are 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 the wastewater treatment plant.

"Watercourse" means a channel in which a flow of water occurs, either continuously or

intermittently.

13.08.020 Abbreviations.

The following abbreviations shall have the designated meanings:

ANSI - American National Standards Institute

ASPP - accidental spill prevention plan

ASTM - American Society for Testing and Materials

CFR - Code of Federal Regulations

COD - chemical oxygen demand

FOG - fats, oil, and grease (petroleum, mineral, animal and/or vegetable based)

GPD - gallons per day

l - liter

LEL - lower explosive limit

mg - milligrams

mg/l - milligrams per liter

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

O&M - operation and maintenance

RCRA – Resource Conservation and Recovery Act (42 U.S.C. 6901, et seq.)

SWDA - Solid Waste Disposal Act (42 U.S.C. 6901, et seq.)

USC - United States Code

Note: With regard 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.

13.08.030 Use of public sewers required.

A. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner upon public or private property within the city, or in any area under the jurisdiction of said city, any human excrement, garbage, or other objectionable waste.

B. The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purpose, situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, is hereby required at his expense to install suitable sanitary plumbing fixtures therein, and to connect such facilities directly with the proper sewer in accordance with the provisions of this ordinance within 60 days after the date of receipt of a notice in writing issued by the public works director for connection to be made, providing that said public sewer is within 200 feet of the building. Such notice will also be given when the owner is required to repair or completely replace the side sewer, such as during, but not limited to, a sewer rehabilitation project.

C. If any such connection or repair or replacement shall not have been made within the time provided, the public works director is hereby authorized and directed, at his discretion, to either:

1. Cause such connection to be made, in which case the public works department shall file a statement of the cost thereof with the community development director and thereupon a warrant shall be issued under the direction of the city council against the water-sewer utility fund for the payment of such costs. Such amount, together with interest of 12 percent per annum, shall be assessed against the property upon which the said building or structure is situated and shall become a lien thereon. Such lien may be enforced by termination of some or all of the utility services provided to the property or in any other manner authorized by law. Such total amount, when collected, shall be paid into said water-sewer utility fund.

2. Bill the owner the appropriate sewer service charges, such as are provided in this ordinance, as if said connection had been made. Such charges shall include, but are

not necessarily limited to, user charges and treatment plant reserve charges. Penalties for nonpayment of said charges shall be as stipulated by city ordinance.

Notice by the city shall be by personal service or certified mail, return receipt requested, directed to the owner of the property at the owner's address as indicated by the records of the Lewis County assessor's office.

3. Cause water service to the property to be terminated, if service is provided by the city water system. Notice to the owner and occupant shall be by certified mail, return receipt requested, with copy to Lewis County health department. Action will be taken 30 days after receipt of notice in the event of failure of other alternatives or high pollution potential.

D. Final decision on the alternative action to be selected by the public works director shall be based upon such factors as location of the unconnected or unacceptably connected building or structure, effectiveness of existing private treatment facilities, if present, groundwater contamination potential and health hazard or potential health hazard that may, and the impact(s) or potential impact(s) that such problem may have on city services or rehabilitation programs.

13.08.040 Owner of building to install and connect toilet facilities.

The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purpose, situated within the city, and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, is required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance; provided, that such public sewer is within 200 feet of the property line.

13.08.050 Mandatory drain and sewer connections.

The public works director shall have the power in all cases, where there is a public sewer in any street or alley, to cause any owners of land upon or adjoining such street or alley, his agent or tenant, to make a sufficient drain and proper sewer connections from his or her premises, whenever in his opinion the same is necessary, and he shall thereupon give each owner, agent or tenant, or person occupying such premises not less than five days' notice in writing specifying the time when such drain or sewer connections must be completed, and if said owner, agent, or tenant neglects to complete the same within the time specified, and in addition to the penalties imposed for the violation of any of the provisions of this section, the public works director shall cause it to be done and shall recover the whole amount of the expense thereof by an action in the name of the city before any court having jurisdiction thereof, from said owners or persons occupying such premises, who shall be severally and jointly liable thereof. And the same shall constitute a lien on said premises and may be foreclosed as provided by law.

13.08.060 Private system-Allowed when.

Where a public sanitary sewer is not available under the provisions of section 13.08.040, owner of building to install and connect toilet facilities, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of city ordinance.

13.08.070 Private system-Operation.

The owner shall operate and maintain the private wastewater disposal facilities in a manner consistent with the policies, regulations, and requirements of the Lewis County health department.

13.08.080 Private system-Abandonment.

At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in 13.08.050, mandatory drain and sewer connections, a direct connection shall be made to the public sewer in compliance with this ordinance, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be abandoned

and filled with suitable material as provided by city ordinance.

13.08.090 Application for connection.

A. Each premises shall have a separate sewer connection except where special conditions exist as delineated in this section. Any person desiring sewer service for any premise shall make application therefore at the public works department. The application shall be made on a printed form furnished by the city for that purpose.

B. Applicants for service outside the corporate limits of the city shall provide required information, comply with city annexation agreement requirements and sign an agreement stating that they will not oppose annexation of the area including the premises for which service is being applied.

C. All applicants that obtain or can obtain water from sources other than the municipal supply may be required to supply the public works department with an inorganic analysis of the water from such other source before application for sewer service will be approved. After the application has been approved by the public works director, the applicant shall pay to the city, all the charges as required. When all service charges have been paid, the approved application shall constitute an agreement whereby the applicant agrees, as a condition for the continued sewer service, to conform to rules and regulations of the public works department as provided in this ordinance and any amendment to this ordinance, and the agreement stated in the application. The application or sewer service will contain an agreement requiring the person making the same to pay for the sewer service applied for at the rates and in the manner specified by city ordinances; reserving unto the city the right to charge and collect the rates and to enforce the penalties provided in city ordinances and to change the rates by ordinance at any time; allowing the city to temporarily discontinue the service at any time without notice to the customer and specifying that said agreement is subject to all provisions of this ordinance or of any ordinance of the city relating to any public sewer system of the city. The agreement shall provide that the city shall not be responsible for any damage by sewage or other cause resulting from defective plumbing or appliances on the premises being supplied with sewer service, and shall provide that in the event the sewer service shall be interrupted or fail by reason of accident or any other cause whatsoever the city shall not be liable for damages for such interruption or failure nor such failures or interruptions for any reasonable period of time be held to constitute a breach of agreement on the part of the city or any way relieve the customer from performing the obligations of his agreement. The city shall not be held liable for damage to personal property stored in the portion of the street between the curb and the property line nor to real property in said area resulting from leakage or the breaking of pipes or appliances maintained by the city within that portion of the street herein described. All agreements contained in the application shall take effect from the date the application is approved by the public works director. If for any reason the public works director does not approve the application, the public works director shall explain the reason for disapproval in writing at the request of the applicant, and no conditions or agreements shall be in effect. If the public works director disapproves the application, the applicant may request the city manager to review the application and reasons for disapproval. The city manager may, at his discretion, approve, reverse, or revise the decision of the public works director, subject to review by the city council. Service charges shall be in effect as long as the sewer service is in an active status.

D. Applicants for sewer service for industrial or commercial establishments shall be required to have an approved water meter installed if such meter is not already installed. Such meters shall be used by the city to determine sewer use charges.

E. Applicants desiring to make a new connection to the public sewer for the purpose of discharging industrial wastes shall prepare and file with the public works director a report that shall include actual or predicted data relating to the quantity and characteristics of the waste to be discharged.

13.08.100 Side sewer responsibility.

A. All costs and expenses incident to the initial installation, connection, and operation and routine maintenance of a side sewer shall be borne by the owner of the premises served by the side sewer.

B. If a sewer main at the point to which the side sewer is connected is not located under a street surface, all costs and expenses incidental to the repair and rehabilitative maintenance and/or replacement of the entire side sewer, shall be borne by the owner of the premises served by the side sewer.

C. If a side sewer is connected to the sewer main at a location under a street surface, all costs and expenses incident to the repair and rehabilitative maintenance and/or replacement of the portion of the side sewer from the sewer main to the street curb or, if there is no street curb, street shoulder under which the sewer main is located, shall be borne by the city.

D. Where a side sewer is connected to the sewer main at a location under a street surface, all costs and expenses incident to the repair and rehabilitative maintenance and/or replacement of the portion of the side sewer from the street curb or, if there is no street curb, the shoulder of the street under which the sewer main is located, to the building plumbing, even if the location of a portion of said side sewer incidentally crosses or is located under street surface(s), shall be borne by the owner of the premises served by the side sewer.

E. The owners of the premises served shall indemnify the city from any loss or damage that directly or indirectly may be occasioned by the installation of a side sewer. When the city is required to maintain that portion of a side sewer from a street curb or street shoulder to the building drain in order to protect the public sewer or whenever the city is required to maintain the portion of a side sewer from the street curb or street shoulder to the sewer main because of damage directly or indirectly caused by the owner of the premises served by a side sewer or caused by action or the omission of action by said owner, costs for such maintenance shall be charged to said owner. Any costs so charged and not paid within 30 days within the date of billing therefore shall constitute a lien against the property served by the side sewer.

F. For the purposes of this section, "routine maintenance" shall mean operational maintenance of a side sewer including, but not limited to, the cleaning or rodding to clear grease or other internal obstructions or substances that have been discharged or allowed to accumulate in the side sewer that may interfere with the operation of the side sewer. The term "rehabilitative maintenance" shall mean repair and major maintenance of a side sewer including, but not limited to, construction, reconstruction, or excavation to repair damage to a side sewer caused by external forces or failure of the pipe or pipe material.

13.08.110 Separate side sewer.

A separate and independent side sewer shall be provided for every building except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the side sewer from the front building may be extended to the rear building and the whole considered as one building sewer. Where, because of physical complications, the public works director finds that it may be necessary or beneficial to allow two adjacent buildings to connect to the public sewer through a common side sewer, such connection will be allowed, provided that the common side sewer has a diameter of six inches or greater. Old side sewers may be used in connection with new buildings only when they are found, on examination or test by the public works director, to meet all requirements of this ordinance.

13.08.120 Additional requirements.

No statement contained in this ordinance shall be construed to interfere with any additional requirement that may be imposed by DOE, the county health department, or other authorized regulatory agency.

13.08.130 Side sewer permit required.

No person shall uncover, make any connections with or opening into, use, alter, or disturb the public sewer or appurtenance thereof, or engage in the construction of a side sewer, either on private property or within public right-of-way, without first obtaining a side sewer permit from the public works department, in which the specific purpose shall be delineated. A side sewer permit will be required for each individual structure to be connected. Application for a side sewer permit, for the purpose of making connection to, or opening into, altering or disturbing the public sewer or appurtenance thereof, or engaging in the construction of a side sewer, shall be made by the owner of the property to be serviced, or a qualified plumbing contractor licensed and bonded by the State of Washington Department of Labor and Industries. No licensed plumbing contractor shall do any side sewer work under any other person's side sewer permit, nor shall any unauthorized person do any side sewer work under a side sewer permit applied for and issued to a licensed plumbing contractor or the owner of the property where such side sewer work is to be performed except as may be otherwise authorized by the public works director. The issuance of a side sewer permit by the city shall not relieve the permit holder from the responsibility of obtaining other such permits or licenses as may be required by the city, the county, or other jurisdictions in which the side sewer is installed. Permit holders shall contact other utilities for location of their facilities before starting excavation. When a side sewer is to be installed across the private property of another person, the applicant requesting the side sewer permit must show proof that a duly executed easement has been obtained from other such property owner and officially recorded.

13.08.140 Sewer and side sewer construction.

All sewers and side sewers shall be constructed and installed in accordance with the provisions of the engineering development code as adopted by the city council. All work shall require approval and acceptance by the public works director.

13.08.150 Side sewer pipe materials.

A. Pipes acceptable for side sewers shall be as follows:

1. Cast iron soil pipe - Federal Specification WWP-401
2. Ductile pipe - ANSI A21.51 Thickness Class 51
3. Polyvinyl chloride (PVC) - ASTM D3034 with SDR Equals 35

B. The public works director shall consider any proposed sewer pipe other than those specifically set forth to determine its acceptability for use. Until a final determination allowing the use of such pipe has been made, no pipe other than those listed shall be used for side sewers to be connected to the sanitary sewer system of the city.

C. Whenever possible, sewers should be laid at least ten feet horizontally, from any existing or proposed water main. Should local conditions prevent a lateral separation of 10 feet, a sewer may be laid closer than 10 feet to a water main if the sewer is constructed of cast iron or ductile iron with watertight joints; and:

1. It is laid in a separate trench.
2. It is laid in the same trench with the water main located at one side on a bench of undisturbed earth.
3. In either case, the elevation of the crown of the sewer is at least 18 inches below the invert of the water main.

13.08.160 Side sewer pipe joints.

All joints and connections shall be gas tight and water tight, as determined by the testing and inspection procedures outlined in this ordinance. Plumbing joints for PVC pipe shall be rubber-gasketed type conforming to ASTM D3212. Joints for ductile iron pipe shall be push-on type or mechanical joint conforming to ANSI A21.11. Pipe and jointing shall be installed in accordance with the instructions furnished by the pipe manufacturer and approved by the public

works director. Other jointing materials and methods may be used only with the approval of the public works director.

13.08.170 Side sewer fittings and cleanouts.

A. The side sewer shall be laid at uniform grade and in straight horizontal alignment insofar as possible. Changes in horizontal alignment shall be made only with wye branches, bends, or a combination of wye branch and bend. All changes of horizontal alignment 45 degrees or greater shall be made with a wye branch and bends as required, with the straight through opening plugged for use as a cleanout. No 90 degree bend shall be allowed. Two bends may be allowed between cleanouts provided the distance between cleanouts does not exceed 20 feet. A cleanout shall be installed between 30 inches and 36 inches of all buildings unless written permission to omit or change the location of such cleanout has been obtained from the public works director. Additional cleanouts, including those used for commercial and industrial properties, shall be installed in locations designated by the public works director, but in no case shall the distance between cleanouts exceed 100 feet. Suitable frames and covers of a type designated by the public works director shall be used for all cleanouts on commercial or industrial property and in paved areas, and such frames shall be cast in a concrete block 30 inches by 30 inches by eight inches flush with the final paving. All cleanouts not in paved areas shall extend to within 18 inches of the ground surface. All cleanouts shall be plugged with plugs, using the standard compression joint of the pipe being used, to prevent entry of dirt, root, groundwater or surface water, and shall be secured against back pressure.

B. A test tee shall be provided at the point of connection to the public sewer and at any other required point or points to ensure that all portions of the side sewers can be tested. It shall be the responsibility of the permit holder to install all risers, cleanouts, casting, concrete blocks, etc., required before the side sewer will be approved by the city.

13.08.180 Connections to public sewer.

The connection of the side sewer into the public sewer shall be made at a wye or tee branch, if such a branch is available in a suitable location. Connections at other than an existing wye or tee shall be made only by a qualified plumbing contractor that is licensed and bonded, and has been approved by the public works director, and all cost for such connections shall be the responsibility of the permit holder or owner. If the joint type or dimensions of wye or tee in the public sewer are different than that of the side sewer pipe, a transition adaptor approved the public works director shall be used to connect the side sewer to the wye or tee. If a suitable transition is not obtainable, the method of making the connection shall be approved by the public works director. Connection to the building drain pipe shall be made by means of a flexible clamp-type coupling or other approved methods. The first length of pipe installed at the wye or tee shall not be more than two feet long.

13.08.190 Size of side sewer pipe.

Side sewers shall be no less than four inches in diameter. If more than one occupied building is attached to the same side sewer or building sewer as allowed in section 13.08.110, separate side sewer, the diameter of the side sewer shall not be less than six inches. Side sewers to multiple structures, commercial establishments, or industrial buildings shall not be less than six inches in diameter where the possibility exists for additional connections to be made to a side sewer, the public works director may require that the side sewer be eight inches in diameter or larger.

13.08.200 Slope of side sewer.

All side sewers shall be laid on a uniform slope of not less than one-fourth inch per foot, wherever possible. Where it is impossible or impractical to obtain a one-fourth inch per foot slope due to the depth of the public sewer or to the structural features or arrangements of the building, a lesser slope is permissible, when approved by the public works director.

13.08.210 Mechanical lifting devices required.

A. In any building, structure, or premises in which the elevation of plumbing fixtures is too low to permit gravity flow to the public sewer or to achieve the minimum slope requirement, the sewage shall be lifted and discharged to the public sewer by approved ejectors, pumps, or other equally efficient, approved mechanical devices.

B. When only the lower floor(s) of a structure is too low for gravity flow, the remaining floors must flow by gravity. The discharge line from said ejectors, pumps, or other mechanical devices shall be provided with an accessible backwater valve and gate valve the discharge line shall connect to the gravity side sewer at the crown of the side sewer through a wye fitting. When, in the opinion of the public works director, there is a possibility of backup in the side sewer from head pressure in the public sewer, minimum elevations may be prescribed by which gravity flow may be obtained and flow from any building drain lower than that prescribed by the public works director for protection against flooding, a backwater valve shall be installed at the owner's expense. Effective operation of any backwater valve and/or any mechanical device to lift sewage and wastes shall be the responsibility of the owner or operator of the building.

C. The city shall not be held liable for any damage or injury sustained from installation or operation of said backwater valve and/or mechanical lifting device.

D. All pump or mechanical lifting device installations must meet all pertinent building and plumbing codes, and must be approved by the public works director before installation.

13.08.220 Excavation.

A. All excavation required for the installation of a side sewer shall be open trench work unless otherwise approved by the public works director. The permit holder, before beginning excavation in a public area, shall have at the site sufficient barricades to properly protect the work. The barricades shall meet the requirements as listed in the manual of Uniform Traffic Control Devices.

B. The permit holder shall comply with any additional city, county, state, or other jurisdictional laws, ordinances, and regulations relating to the safety and protection of the excavation.

13.08.230 Laying of pipe.

When unsuitable bedding is found, as determined by the public works director, the side sewer trench shall be over excavated and a bedding of sand or fine gravel a minimum of four inches deep shall be prepared. Gravel shall be three-quarter inch maximum size. If the trench is unintentionally over excavated, the bottom shall be brought up to proper grade using this same bedding material. All pipe shall be laid true to grade with the bell upgrade. Pipe shall be cradled in the prepared trench bottom. The bottom of the trench shall be smooth and free from large rocks that could injure the side sewer pipe.

13.08.240 Testing.

A. It shall be the duty of the person installing the side sewer as authorized by the permit to notify the public works director orally or in writing that said side sewer is ready for inspection. A minimum of 48 hours is required after said notification before actual inspection may take place. No inspection will be made on Saturday, Sunday, or holidays, or between the hours of 4:00 p.m. and 8:30 a.m.

B. Side sewers shall be tested for their entire length from the public sewer by testing for visible leakage before backfilling by inserting a removable plumber's plug at the connection of the side sewer to the public sewer and filling the line with water to a level of at least one foot above the top of the side sewer at its connection with the building drain. A test tee or tees as required in section 13.08.170, side sewer fittings and cleanouts, shall be used for insertion of plug and shall be secured against back pressure upon completion of the test. A special fitting, provided by the permit holder, shall be inserted into the cleanout fitting at the connection to the building drain to provide a short standpipe to obtain a one-foot head at that point. The side

sewer pipe shall be filled with water at least one hour before actual inspection during which time it will be presumed that full absorption of the pipe body has taken place. The permit holder or the licensed plumbing contractor must be present at the job during the full duration of the inspection.

C. The rate of leakage in the building sewer shall not exceed the following amounts when measured by exfiltration:

1. Four-inch pipe - 0.015 gal/hr/lineal foot of side sewer
2. Six-inch pipe - 0.02 gal/hr/lineal foot of side sewer

13.08.250 Side sewer inspection.

A. It shall be the duty of the holder of a permit to make sure that the work will pass inspection. If an additional inspection is necessary due to test failure, a charge of \$15.00 shall be made for each additional inspection.

B. Notices of correction or violations shall be written by the public works director and may be posted at the site of the work or mailed or delivered to the permittee or his authorized representative. Refusal, failure, or neglect to comply with any such notice or order within 10 days after receipt thereof shall be considered a violation of this ordinance and shall be subject to the penalties for violations set forth elsewhere in this ordinance.

13.08.260 Backfilling.

A. No backfill shall be placed over side sewer pipe until the work has been inspected and approved by the public works director. Any portion of the side sewer covered before inspection shall be uncovered by the owner at his own expense within two days after notice to do so has been issued by the public works director.

B. Trenches shall be carefully backfilled by tamping to a depth of six inches above the pipe to avoid damaging the pipe. All backfill between the public sewer and the property line shall be of material approved by the public works director, and be water-settled or mechanically tamped in six-inch layers to minimize settlement. Any settlement that occurs within 12 months after backfilling shall be corrected at the expense of the permit holder. Additional fill and surfacing materials as approved by the public works director shall be placed to restore the settled area to original grade.

C. A minimum of six inches of gravel surfacing shall be temporarily placed in the public right-of-way or traveled areas in commercial properties. Final surfacing equivalent to the adjoining undisturbed roadway shall not be placed until such time as, in the opinion of the public works director, final settlement has taken place.

D. All pipe installations shall be bedded and backfilled to conform to the pipe manufacturer's specification and in accordance with American Public Works Association Standard Specifications.

E. Minimum cover for side sewer shall be 18 inches, except as hereafter provided:

1. Minimum cover for side sewers at property line shall be four feet below the crest of the public way at said property line.
2. Minimum cover for side sewers crossing a ditch in the public way shall be two feet six inches.

F. Minimum cover restrictions shall not apply when the depth of the public sewer does not allow the minimum cover restrictions to be followed, providing that approval of the public works director has been obtained.

13.08.270 Certain water not to be discharged into sewer.

No person shall discharge or cause to be discharged any stormwater, surface water, ground water, roof runoff, subsurface drainage, cooling water, or unpolluted industrial process waters to any sanitary sewer.

13.08.280 Discharge of unpolluted drainage.

A. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the public works director.

B. Industrial cooling water or unpolluted process waters may be discharged, upon approval of the public works director, to a storm sewer or natural outlet.

13.08.290 Public sewer prohibitions and limitations.

Except as hereinafter provided, no person shall discharge or cause to be discharged into the public sewers:

A. Any solids, liquids, or gases which may by themselves or by interaction with other substances, cause fire or explosive hazards or in any way be injurious to persons, property, or the operation of the wastewater disposal works.

B. Any noxious or malodorous solids, liquids, or gases which either singularly or by interaction with other substances are capable of creating a public nuisance or hazard to life or preventing entry into sewers for maintenance or repair.

C. Any solids, gases, waxes, slurries, or viscous material of such caliber or in such quantity that, in the opinion of the public works director, may cause an obstruction to the flow in the sewer, or otherwise interfere with the proper functioning of the wastewater disposal works.

D. Any toxic substance, chemical elements, or compounds in quantity sufficient to impair the operation and efficiency of the wastewater disposal works, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the wastewater treatment plant.

E. Any waters or wastes having a pH lower than 6.0 or higher than 9.0 or having any other corrosive property capable of causing damage and hazard to structures, equipment, and personnel of the wastewater disposal works.

F. Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit.

G. Any gasoline, benzene, naphtha, fuel, oil, or other flammable or explosive liquid, solid, or gas.

H. Any garbage that has not been properly ground or treated.

I. Any ash, cinder, silt, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, hair or any other solid capable of causing obstruction to the flow in sewers or other interferences with proper operation of the wastewater works.

J. Any waters or wastes having a BOD or containing suspended solids of such character and quality that unusual attention or expense is required to handle such materials at the wastewater treatment plant.

K. Any waters or wastes which contains in excess of 100 milligrams per liter of fat waste, oil, or grease, whether or not emulsified, ether-soluble matter or any substance which may solidify or become viscous at temperature above 32 degrees Fahrenheit.

L. Wastes containing metals or substances with concentrations or mass totals greater than those listed in section 13.08.310, industrial pretreatment requirements, of this ordinance.

13.08.300 Admission into public sewers-Approval.

Review and acceptance of the public works director shall be obtained prior to the discharge into public sewers of any waters or wastes having or containing:

A. A total of more than 30 pounds of suspended solids in any one day;

B. A total of more than 30 pounds of BOD in any one day;

C. A five-day biochemical oxygen demand greater than 300 parts per million by weight;

D. More than 350 parts per million by weight of suspended solids;

E. Any quantity of substances that have characteristics that are prohibited from discharge in accordance with any of the sections of this ordinance;

F. An average daily flow greater than two percent of the normal daily dry weather sewage flow as determined by the engineer.

G. Wastes containing metals or substances with concentrations or mass totals greater

than those listed in section 13.08.310, industrial pretreatment requirements, of this ordinance, if approval for discharge from DOE has been given.

13.08.310 Industrial pretreatment requirements.

A. Intent. The intent of this section is to set forth uniform requirements for users of the city wastewater treatment plant. It shall enable the city to comply with state and federal laws that apply to wastewater treatment plants with SIUs, but without a discharge permit program. All actions required, or authorities granted under this ordinance are in accordance with the Clean Water Act (33 USC 1251 et seq.), the Federal Pretreatment Regulations (40 CFR Part 403), and RCW 90.48, Water Pollution Control. This section shall apply to all users of the wastewater treatment plant. The ordinance 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.

B. Administration. Except as otherwise provided herein, the public works director shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the public works director may be delegated by the public works director to other city personnel.

C. Prohibited discharge standards.

1. General prohibitions. No user shall introduce or cause to be introduced into the wastewater treatment plant any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the wastewater treatment plant 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)).

2. Specific prohibitions. No user shall introduce or cause to be introduced into the wastewater treatment plant the following pollutants in any form (solid, liquid, or gaseous):

a. Any pollutant which either alone or by interaction may create a fire or explosive hazard in the wastewater treatment plant, including, but not limited to, wastestreams 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 wastestreams 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 wastestream cause two successive readings on an explosion meter to be more than five percent nor any single reading over ten percent of the LEL of the meter at any point in the collection system or treatment works.

b. Any pollutant which will cause corrosive structural damage to the wastewater treatment plant, 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 wastewater treatment plant, 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 173-216-060(2)(b)(iv)).

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

d. 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 wastewater treatment plant (40 CFR 403.5(b)(4) and WAC 173-216-060(2)(b)(vi)).

e. 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)).

f. 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)).

g. Any pollutants which result in the presence of toxic gases, vapors, or fumes within any portion of the wastewater treatment plant in a quantity that may cause acute worker health and safety problems (40 CFR 403.5(b)(7)) and WAC 173-216-060(2)(b)(ii)).

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

i. 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)).

j. Any of the following discharges unless approved by DOE 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)):

- i. Noncontact cooling water in significant volumes;
- ii. Stormwater, and other direct inflow sources; or
- iii. Wastewaters significantly affecting system hydraulic loading, which do not require treatment or would not be afforded a significant degree of treatment by the wastewater treatment plant.

k. 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).

l. Any substance which will cause the wastewater treatment plant 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.

m. Any substance which may cause the wastewater treatment plant's effluent or treatment residues, sludges, or scums to be unsuitable for reclamation and reuse or would interfere with the reclamation process or cause the wastewater treatment plant 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;

n. Any discharge which imparts color which cannot be removed by the wastewater treatment plant'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 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 ten percent from the seasonably established norm for aquatic life.

o. Any discharge containing radioactive wastes or isotopes except as specifically approved by the 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.

p. Any sludges, screenings, or other residues from the pretreatment of industrial wastes or from industrial processes.

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

r. Any detergents, surface-active agents, or other substances in amounts which may cause excessive foaming in the wastewater treatment plant.

s. Any incompatible substance such as: grease, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, 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.

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

u. 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 by the public works director (except that no waiver may be given to any categorical pretreatment standard).

3. 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 wastewater treatment plant.

D. 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 405-471, are hereby incorporated by reference.

E. State requirements.

1. State requirements and limitations on discharges to the wastewater treatment plant as incorporated into Washington State Law by RCW 90.48 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 or other applicable ordinances. This includes the requirement to meet AKART as defined herein whenever applicable and more stringent than the limits of subsection F, local limits, and to comply with the requirements of subsection Q, wastewater discharge permitting-- requirements for discharge.

2. Any user determined by the city to qualify as a SIU shall file an application for a State Waste Discharge Permit with DOE 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. Failure to submit the application or rejection of the application by DOE may be considered sufficient grounds to terminate or refuse to provide sewer service.

F. Local limits.

1. 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 concentration limits. These limits apply to the total in all states and forms.

Metals:

Arsenic	0.23 mg/l
Cadmium	0.15 mg/l
Chromium	2.0 mg/l
Copper	0.25 mg/l
Cyanide	1.4 mg/l
Lead	0.14 mg/l
Mercury	0.0003 mg/l
Nickel	1.8 mg/l
Selenium	0.2 mg/l
Silver	0.16 mg/l
Zinc	1.4 mg/l

Other Pollutants

FOG	100 mg/l
BOD	300 mg/l
TSS	300 mg/l

2. The above limits apply at the point where the wastewater is discharged to the city-owned sewer system or sewer collection system (end of the pipe). All concentrations for metallic substances are for "total" metal unless indicated otherwise. DOE 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.
3. Based on the above listed pollutant limits, the equivalent total mass of each pollutant which the wastewater treatment plant can accept per 40,000 gallons of wastewater flow discharged from industrial users to the wastewater treatment plant, are established as listed below. These total mass limits apply to the total in all states and forms.

Arsenic	35 grams/day
Cadmium	22.6 grams/day
Chromium	302 grams/day
Copper	37 grams/day
Cyanide	212 grams/day
Lead	21 grams/day
Mercury	0.05 grams/day
Nickel	271 grams/day
Selenium	30 grams/day
Silver	23 grams/day
Zinc	212 grams/day

4. The above pollutant limits shall immediately apply to all users discharging wastewater to the wastewater treatment plant and sewer system with the following exceptions:
 - a. Users discharging under permit prior to the implementation of this ordinance shall be allowed a period up to five years to achieve compliance with the conditions of this ordinance under the following conditions:
 - i. The user submits a schedule of compliance which will achieve compliance with this Ordinance within five years of the effective date.
 - ii. The city determines it is in the best interest of the community to authorize the discharge, and the discharge will not adversely impact the wastewater treatment plant, cause a violation of the city's NPDES permit,

or any other federal, state, or local regulation.

iii. The user is currently providing AKART as determined by DOE, or the schedule of compliance achieves AKART in the shortest reasonable length of time as an interim step in achieving full compliance.

iv. The city and DOE approve the compliance schedule in writing.

- b. Users may be given credit to discharge additional pollutant loadings in exchange for removing an equal or greater amount of the same pollutant from other sources which discharge to the wastewater treatment plant and sewer system. These "pollutant credits" must be of such a nature that the amount of pollutants removed from the waste streams of other sources can be quantified and verified. The city may add these pollutant credits to the maximum pollutant mass or concentration loadings permitted without violating this ordinance.
- c. Users which are determined by the city to have no potential, either alone or in conjunction with other users, to violate any prohibited discharge standard (see subsection C, prohibited discharge standards) may be exempt from compliance with specific pollutant concentration limits. In such cases these users will be subject only to implementing best management practices as determined by the city or DOE. Such users cannot be SIUs or subject to categorical pretreatment standards or requirements. In such cases, the user shall be designated as an insignificant industrial user (IIU), and shall be listed as such in the city's annual industrial user (IU) survey update.

These exceptions shall be immediately void if the discharge causes a violation of the city's NPDES permit, or any other federal, state, or local regulation, or if compliance with any compliance schedule milestone is not achieved within 30 days of the established date, or if any compliance schedule extends beyond five years from the effective date of this ordinance. In such cases, the user shall be immediately responsible for compliance with the local limits in paragraphs 1 and 3 of this subsection.

G. City's right of revision.

1. The city reserves the right to establish more stringent standards or requirements on discharges to the wastewater treatment plant.

2. The city shall investigate any occurrence of pass through or interference of which it is made aware. Where pass through or interference has been caused because local limits do not exist for the pollutant, or where the existing limit is not sufficient to protect the wastewater treatment plant, the city shall amend the local limits to establish an appropriately restrictive limit and take such other measures, within its control and power, that are necessary to prevent recurrences.

H. DOE's approval required to revise local limits. The city shall obtain DOE's approval prior to revising local limits or before authorizing over 40,000 GPD of flow from industrial dischargers.

I. Special agreement.

1. The city 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 may establish terms of the user's discharge to the wastewater treatment plant, including maximum flow rates and concentrations. The city 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.

2. 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 wastewater treatment plant. The director may

require any claim of compatibility to be endorsed by DOE.

3. The city may assist, by arrangement or formal agreement, any agencies that regulate hazardous wastes and materials, and air emissions from users in order to maximize state, county, and city resources.

4. The city may specifically arrange to act as an agent of DOE to determine compliance with treatment or disposal requirements and inspect on-site disposal activities and shipping documents.

5. The city may facilitate compliance by arranging or providing pollution prevention technical assistance for users, especially those in violation of pretreatment standards. The director intends to provide such assistance in coordination and cooperation with the appropriate local, county, and state authority(ies).

J. 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 DOE impose mass limitations on users which he believes may be using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.

K. Pretreatment facilities.

1. 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 DOE for review and approval in accordance with the procedures of Chapter 173-240 WAC, and shall be disclosed to the city 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 and/or DOE and meet discharge limitations under the provisions of this ordinance. Such facilities shall be provided, operated, and maintained at the user's expense.

2. 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 DOE before implementation in accordance with Chapter 173-240 WAC. Users shall submit a copy of such revised plans and Does acceptance to the public works director before implementing changes to approved pretreatment facilities. The public works director 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.

L. Deadline for compliance with applicable pretreatment requirements.

1. Except as it may relate to existing users for which temporary relief from local limits has been authorized and a schedule of compliance has been approved in accordance with subsection F, local limits, existing sources to which one or more categorical pretreatment standards are 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. DOE 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.

2. 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 ninety 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.

M. Additional pretreatment measures.

1. Whenever deemed necessary, the public works director may require users to comply with such conditions as may be necessary to protect the wastewater treatment plant and determine the user's compliance with the requirements of this ordinance. 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 wastestreams from industrial wastestreams.

2. Grease, oil, and sand interceptors shall be provided when, in the opinion of the public works director, they are necessary for the proper handling of wastewater containing grease and oil in excess of the limits in subsection F, (local limits) 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 prevents 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.

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

4. 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 wastewater treatment plant, 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 may require the user to obtain a wastewater discharge permit solely for flow equalization, or to develop a slug discharge control plan (below).

N. Accidental spill/slug discharge control plans.

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

- a. A description of all wastewater discharge practices, including non-routine batch discharges;
- b. A description of any and all stored chemicals;
- c. Procedures for immediately notifying the public works director of any accidental or slugload discharges, with procedures for follow-up written notification within five days; and
- d. Procedures to prevent adverse impact from any accidental or slugload 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.

2. Users shall verbally notify the public works director immediately upon the occurrence of a slugload or accidental discharge of substances regulated by this

ordinance and take immediate actions to correct the situation. Such notification shall include the following information:

- a. The location of discharge;
 - b. The date and time thereof;
 - c. The type of waste;
 - d. The waste concentration and volume; and
 - e. The corrective actions taken and planned. The user shall follow-up with a written notification to the public works director containing the same information within seven days following the discharge.
3. Any user who discharges an accidental discharge or slugload shall be liable for:
- a. Recovery of any resultant expenses, losses, and damages to the wastewater treatment plant;
 - b. Recovery of any fines or settlements levied upon the city by any government agency or court of competent jurisdiction attributable to the discharge; and
 - c. Applicable fines and penalties assessed upon the user by the city for noncompliance with this ordinance.

O. Septage and liquid hauled wastes.

1. Unless specifically approved by the public works director, no septage and liquid hauled wastes shall be introduced into the wastewater treatment plant. If such approval has been given, septage and liquid hauled wastes shall be allowed to be discharged only at such times as are established by the public works director and under the terms and/or conditions established by the public works director.

2. If allowed to be discharged, septage shall not violate any discharge prohibition or standard of this ordinance or any other requirements established or adopted by the city. The public works director may issue wastewater discharge permits for individual vehicles to use such facilities.

3. Prior to discharging any septage and liquid waste for which approval has been given, septage and liquid waste haulers must provide the public works director with a waste-tracking form for every load when discharged. This form shall include, at a minimum, the name and address of the waste hauler, city septage permit number, truck identification, addresses of the sources of waste, and volume and characteristics of waste.

4. Haulers of liquid wastes other than septage shall provide full disclosure to the public works director of the source(s) of the wastewater, and such additional information as required by the public works director to characterize the wastewater. The public works director may issue an authorization on his/her own authority, or require haulers of non-domestic wastewater to obtain a waste discharge permit prior to authorizing the discharge. No authorization to discharge such wastewater shall be granted until the public works director has determined to his satisfaction that the wastewater complies with all applicable discharge standards, prohibitions, and requirements of this ordinance.

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

P. 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 ordinance.

Q. Wastewater discharge permitting--Requirements for discharge.

1. No SIU shall discharge wastewater into the wastewater treatment plant without

first obtaining a statement from the public works director that the wastewater treatment plant has the hydraulic and/or loading capacity to accept the discharge. Each SIU must also comply with the state requirements listed in subsection E, state requirements, and in particular, apply for and receive a wastewater discharge permit from DOE 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 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.

2. 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 ordinance.

3. The public works director 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:

a. Lessen the potential for violating this ordinance or any water quality standard; or

b. May represent a significant decrease either singly, or in combination with other similar users, in the toxicity of pollutant loadings to the wastewater treatment plant.

4. The city may require users seeking authorization to discharge to the wastewater treatment plant to complete a pollution prevention review before submitting their request to discharge to the public works director. The city may also 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.

5. Whenever a moratorium has been imposed upon the wastewater treatment plant preventing the addition of new users, the public works director may require any or all users of the wastewater treatment plant 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.

R. Permit requirements for dangerous waste constituents.

1. Users discharging a wastestream containing dangerous wastes as defined in Chapter 173-303 WAC (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 DOE, or accurately describe the wastestream in a temporary permit obtained pursuant to RCW 90.48.165. The description shall include at least:

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

ii. The mass of each constituent expected to be discharged.

iii. The type of discharge (continuous, batch, or other).

b. Compliance shall be obtained on the following schedule:

i. Before discharge for new users.

ii. Within 30 days after becoming aware of a discharge of dangerous wastes to the wastewater treatment plant for existing users; and

iii. 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.

S. Disclosure of records. Each user shall have available at the location of discharge, all

records and reports required by this ordinance, 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 ordinance.

T. Reports from unpermitted users. All users not obligated to obtain a wastewater discharge permit from DOE shall provide appropriate reports to the city 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.

U. Reporting requirements for dangerous waste constituents. Any user discharging 100 kg or more of dangerous waste in any calendar month to the wastewater treatment plant where the pollutants are not reported through self monitoring under an applicable state waste discharge permit, shall report to the public works director and DOE, the following information to the extent that it is known or readily available to the user:

1. The name of the dangerous waste as set forth in Chapter 173-303 WAC, and the dangerous waste number;
2. The specific hazardous constituents;
3. The estimated mass and concentration of such constituents in wastestreams discharged during the calendar month;
4. The type of discharge (continuous, batch, or other); and
5. The estimated mass of dangerous waste constituents in wastestreams expected to be discharged in the next 12 months.

V. Record keeping.

1. Users subject to this ordinance shall retain, and make readily available for inspection and copying, all records of information maintained to comply with this ordinance, 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.

2. Monitoring records shall include: the date, exact place, method, and time of sampling; the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses.

3. 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 wastewater treatment plant, or where the public works director has specifically notified the user that a longer retention period is required.

W. Sampling requirements for users.

1. Applicable requirements. Users which discharge to the wastewater treatment plant shall abide by all applicable wastewater monitoring requirements of this ordinance, 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 wastewater treatment plant, or may conduct city monitoring of any discharge to the wastewater treatment plant.

2. Categorical user sampling requirements. Categorical users with combined discharges shall measure flows and pollutant concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e). Where feasible, such users shall sample immediately downstream from any pretreatment facilities, unless DOE determines end-of-pipe monitoring to be more stringent or applicable.

3. Non-categorical users: All other users where required to sample, shall measure the flows and pollutant concentrations necessary to evaluate compliance with pretreatment standards and requirements.

4. Data required. Users which analyze wastewater samples shall record and report with the sampling results, the information required by subsection V, record keeping. 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 ordinance, or a wastewater discharge permit.

X. 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 EPA or DOE.

Y. Upset.

1. 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.

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

a. 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;

b. 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

c. The user has submitted the following information to the wastewater treatment plant and the public works director 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:

i. A description of the indirect discharge and cause of non-compliance;

ii. The period of non-compliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and

iii. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the non-compliance.

3. Users will only have the opportunity for a judicial determination on a claim of upset in an enforcement action brought for non-compliance 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.

Z. Bypass.

1. 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 paragraphs 2 and 3 of this subsection.

2. Requirements for bypasses subject to pretreatment standards or requirements.

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

b. 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 public works director within five days of becoming aware of the bypass.

c. 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 public works director may waive the written report if the verbal notification has been received within 24 hours.

3. Exceptions. Bypass is prohibited, and the wastewater treatment plant may take an enforcement action against a user for a bypass, unless:

a. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

b. 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 should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

c. The user submitted notices as required, above, in paragraph 2 of this subsection.

4. The public works director may approve an anticipated bypass, after considering its adverse effects, if he determines that it will meet the three conditions listed in this subsection.

13.08.320 Preliminary treatment facilities.

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

13.08.330 Industrial waste sewer service.

A. Each person discharging industrial wastes into a public sanitary sewer with a daily total in excess of thirty pounds of either ammonia, BOD, or suspended solids may, at his option, or shall, when directed by the public works director, construct and maintain approved measurement, sampling, and sample storage facilities for all waste entering the sanitary sewer. These facilities may be used to obtain flow, BOD, and suspended solids data for use as a basis for an industrial waste sewer service charge.

B. In lieu of directing the construction of measurement sampling and sample storage facilities, the public works director may direct that each person discharging industrial wastes into a public sanitary sewer which has a daily total in excess of 200 pounds of either BOD or suspended solids to procure at the person's expense and in a manner approved by the public works director sufficient composite samples on which to base and compute the person's industrial waste sewer service charge. In the event that automatic flow measurement, sampling, and sample storage facilities are not provided, the industrial waste charge shall be computed using the metered water flow to the premises as a basis for waste flow and the laboratory analysis of samples procured as directed by the public works director as a basis for waste flow and the laboratory analysis of samples procured as directed by the public works director as a basis for computing BOD and suspended solids content of the wastes. Metered water flow shall include all water delivered to or used on the premises and which is discharged to a public

sanitary sewer. In the event that private water supplies are used, they shall be metered at the person's expense. Cooling waters or water not discharged to a public sanitary sewer shall be separately metered at the person's expense and in a manner approved by the public works director prior to allowing deduction of such flow from the total water used on the premises in computing the industrial waste sewer service charge.

C. Persons discharging industrial wastes into a public sanitary sewer with a daily total of two hundred pounds or less of either BOD or suspended solids may install measurement and sampling facilities for the purpose of receiving an industrial waste sewer service charge based on quantity and strength of the waste, or may elect to have their sewer charge based on the commercial sewer rate.

D. The city may determine, by at least three composite waste samples during a year, if a waste discharged to the sanitary sewers, based on either BOD or suspended solids, exceeds 200 pounds per day. If three consecutive measurements by the city indicate that the 200-pound-per-day rate is being exceeded, then, the waste will be considered to be an industrial waste.

13.08.340 Flow measurement and sampling facilities requirements.

A. If so directed by the public works director, all devices, access facilities, and related equipment shall be installed by the person discharging the waste, at his expense, in proper operating condition at all times, and readily accessible to city forces during the operating day.

B. The flow measurement device can be a Parshall flume, weir, venturi, nozzle, magnetic flowmeter, or any other type of device providing accurate and continuous flow indication. Pump timers or other indirect measurement devices will not be acceptable.

C. The flowmeter shall be suitable for indicating and totalizing the flow in millions of gallons per day through the device, explained prior, with an error not exceeding plus or minus five percent. The instrument shall be equipped with a set of electrical contacts arranged to momentarily close a circuit to energize a process timer and sampling device for every size quantity of flow. This quantity should be selected so as to insure a minimum of 50 samples per operating day. Other control variations will be acceptable if it can be demonstrated that the sampling procedure will result in a waste sample which is proportional to the waste flow. The length of operation of the sampling device shall be dependent on the type of sampling arrangement used, but in no case shall the daily collected sample be less than two quarts in volume.

D. The flow measurement and sampling station shall be located and constructed in a manner acceptable to the city. Complete plans on all phases of the proposed installation, including all equipment proposed for use, shall be submitted to the city for approval prior to construction.

E. The person discharging the waste shall keep flow records as required by the city and shall provide qualified personnel to properly maintain and operate the facilities.

13.08.350 Owner to install manhole.

Where required by the public works director, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in each building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the public works director. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

13.08.360 Measurements, tests, and analyses.

All measurements, tests, and analyses of the characteristics of waters and wastes shall be determined at the control manhole provided for in section 13.08.350, owner to install manhole, or upon suitable samples taken at said control manhole. All BOD and suspended solids tests shall be made on composite samples collected proportionate to the rate of flow and over a complete operating period.

13.08.370 Analysis of waste samples.

The waste samples will be analyzed by city forces. Laboratory procedures used in the examination of wastes shall be those set forth in standard methods. However, alternate methods for certain analysis of industrial wastes may be used.

13.08.380 Inspection by director.

The public works director and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling, and testing, in accordance with the provisions of this ordinance.

13.08.390 Service call.

Service calls for any reason including but not limited to complaints, leaks, blockages, or other problems due to trouble in lines not owned by the city or problems in the lines or mechanical devices owned by the city caused by problems or conditions in the private lines or lines owned other than by the city shall be charged to the customer requesting the call at the appropriate rate as provided by city ordinance. The amount charged for the service call shall be billed to the customer as a separate charge and shall be due and payable within seven days after the date of the bill.

13.08.400 Disconnection of service, abated building.

Whenever a premises provided with sewer service has been found by the proper authorities to be dangerous to human life and/or unfit for human habitation and notice of such findings as been provided to the public works director by said authorities, the public works director shall require the owner of said premises to disconnect the side sewer that was "serving said abated building" from the public sewer and use an approved plug or other device or fitting that will eliminate any ground or surface water, dirt, or any other object from entering the sewer from the point of disconnection. It is the responsibility of the owner to notify the public works director when such disconnection has been properly made so it can be inspected before backfilling occurs.

13.08.410 Damaging sewer system.

Any person causing damage to any property belonging to the city shall be liable to the city for any and all damages resulting either directly or indirectly therefrom.

13.08.420 Crime to damage or interfere with access to the sewer system.

No person shall disturb, break, deface, damage, or trespass upon any property belonging to or connected with the sewer system of the city in any manner whatsoever. No person shall store, maintain, or keep any goods, merchandise, materials, or rubbish within a distance of five feet or to interfere with the access or operation of any manhole, lift station or any other equipment or facility of the sewer system.

13.08.430 Emergency interruption of service.

A. In the event of emergency or whenever the public health, safety, or the equitable distribution of water so demands, the public works director may authorize the city to change, reduce, alter, or limit the time for or temporarily discontinue sewer service. Sewer service may be temporarily interrupted for purposes of making repairs, extensions, or doing other necessary work.

B. Before so changing, reducing, limiting, or interrupting the sewer service, the city shall notify, insofar as practical, all sewer consumers affected. The city shall not be responsible for any damage resulting from interruption, change, or failure of the sewer system. In addition, the city makes no commitment as to the continuity of service; and will not be liable for injuries or damage due to interruption of service.

13.08.440 Right to terminate sewer service.

A. The city reserves the right to terminate sewer service for any residence or commercial or industrial customer where it is determined by the city that the wastes being discharged:

1. Are causing operational problems with the sewer collection system, lift station, and/or wastewater treatment plant.
2. Are in some way damaging pipelines, manholes, lift stations, or equipment and/or machinery at the wastewater treatment plant.
3. Are causing health or safety problems either with the city sewer department personnel or other persons.

B. Termination of such sewer service shall be in effect until it is determined by the public works director that any and all problems have been corrected and some action or other steps have been taken to prevent their reoccurrence.

13.08.450 Construction work in streets.

All persons, firms, corporations, and governmental agencies, and their contractors, performing street work that may interfere, conflict, affect or endanger the sewer system of the city shall be required to obtain a right-of-way permit.

13.08.460 Protection of the public health.

The public works director shall conduct periodic inspections of the sewer system in coordination with the appropriate health department. The public works director shall, from time to time, suggest rules and regulations deemed necessary by him to the city council to protect or augment the operation of the sewer system.

13.08.470 Payment for sewer service.

In accordance with city ordinance, payment shall be due on the 20th of the month. Unpaid statements become delinquent on the 21st day of the month or at 5 p.m. on the next full business day and a delinquency charge as established by city ordinance shall be added to each unpaid account and a delinquent statement sent by mail. Payment of the delinquent balance must be received within seven days of the date of the delinquent notice to avoid service interruption. Sewer statements for residential customers will be mailed to customers on a bi-monthly basis. Sewer statements for commercial and industrial customers will be mailed to those customers on a monthly basis. All statements are to be paid either by mail or in person to the city. The owner of the premises receiving sewer service shall have the right to have statements for service charges mailed to a tenant, lessee or agent, but such mailing shall not relieve the property owner for liability of payment for charges incurred.

13.08.480 Charge for special improvements.

Where special improvements or upgrading projects have been installed and the costs of such improvements are determined to be financed by user charges to the customers served by or benefiting from such improvements, these customers shall be responsible for an additional charge to be added to the customer's statement. The amount of this additional charge shall be as determined for the specific improvement or upgrading project. Such additional charge shall be to satisfy all debt service requirements and other related costs.

13.08.490 Delinquency/lien.

A. All sewer rates shall be charged against the premises for which the service was connected. Any and all charges provided for, when the same become delinquent and unpaid, shall constitute a lien against the premises to which the same has been furnished. Enforcement of a lien and collection of a lien shall include, but not be limited to, the right to stop service and deny service thereafter to any and all owners and/or occupants of the premises until the charges for service and/or other charges have been paid in full.

B. In cases where the occupant of the premises moves to another location within the

system and applies for service at the new location, services may be denied at such location until and unless any statement for service against the first location is fully paid.

C. If any such charges are not paid, the city may record a lien at the office of the county auditor against the property for which the service was connected. Such lien shall include the delinquent charges and such customer shall be responsible for all costs incurred by the city, including reasonable attorney's fees for preparing the lien and the fee for recording the lien.

D. Failure to receive mail will not be recognized as a valid excuse for failure to pay charges due. Notice of change in ownership of property and change in mailing address must be given in writing by the property owner or his agent to the city. The public works director may require an advance or satisfactory security for sewer service to be furnished, and if such payment is not made or security furnished within the time fixed by the public works director, sewer service may be discontinued to premises.

13.08.500 Delinquent charges-Discontinuance of service.

A. In the event of failure to pay sewer service charges after they become delinquent or failure to have flow or sampling devices in proper operating condition for more than one week, the city shall have the right to remove or close sewer connections, and enter upon the property for accomplishing such purposes.

B. The expense of such removal, or closing, as well as the expense of restoring service, shall likewise be a debt due to the city and a lien upon the property and may be recovered by civil action in the name of the city against the property owner, the person, or both.

13.08.510 Restoration of service.

Sewer service shall not be restored until the owner pays the lesser of either the current connection/capacity charges for such sewer service or back (unpaid) sewer service capital improvement rate charges for sewer service. Back charges shall be equal to the total current sewer service capital improvement rate charges for minimum sewer service multiplied by the total number of months that the sewer service has been in an inactive status and/or for the period of months that such capital improvement rate charges have not been paid and all other charges, such as the expense of removal, closing, and restoration of sewer line, and all applicable fees as established by the Storm and Surface Water and Water system ordinances shall have been paid.

13.08.520 Delinquent charges-Change of ownership.

Change of ownership or occupancy of premises found delinquent shall not be cause for reducing or eliminating these penalties.

13.08.530 Sewer main extension request.

When a person desires to extend a city sewer main, that person must make a written request to the city and state on that request the location where the extension is desired, the purpose for extension and give details and extent of any development he is considering, as well as any other factors as may be pertinent. The public works director shall evaluate all requests for main extensions. If the extension is considered feasible, then the pipe diameter and other conditions shall be determined by the public works director.

13.08.540 Sewer main extension installation.

The person requesting the main extension shall be responsible for all costs of installation. The person requesting the main extension shall also be charged a fee to pay the costs of the inspection performed by the public works department personnel and/or contracted engineer's inspector. The amount of the fee for inspections shall be determined after assessing the entire project. The extension shall be installed in accordance with the engineering development code.

13.08.550 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 wastewater treatment plant.

Any person found in violation of this requirement shall be subject to the sanctions set out in this ordinance.

13.08.560 Confidential information.

A. Records kept by the city 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, 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 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.

13.08.570 City monitoring of wastewater.

The city shall follow the procedures required of users described in section 13.08.310, industrial pretreatment requirements, whenever conducting wastewater sampling of any industrial user when such sampling is conducted to ensure compliance with this ordinance and applicable pretreatment standards and requirements.

13.08.580 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 ordinance, and any wastewater discharge permit or order issued under this ordinance or by DOE, 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 to inform DOE of such activities where users hold a state waste discharge permit in order to make the results of such sampling available to DOE.

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 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 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 access to any area to

perform functions authorized under this ordinance shall be grounds for termination of wastewater treatment services, and enforcement as authorized by this ordinance.

13.08.590 Monitoring facilities.

A. Any user notified by DOE or the city 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 wastewater treatment plant. 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 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 DOE 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 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 of the public works director.

13.08.600 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 shall seek issuance of a search and/or seizure warrant from Lewis County Superior Court when:

1. There is probable cause to believe that there may be a violation of this ordinance;
2. There is a need to inspect as part of a routine inspection program of the city designed to verify compliance with this ordinance, an order issued hereunder, or any wastewater discharge permit; or
3. Necessary to protect the overall public health, safety, and welfare of the community.

B. Such warrant shall be served at reasonable hours by the public works director in the company of a uniformed police officer of the city.

C. 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 may enter in the company of a uniformed police officer, 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.

13.08.610 Consent orders.

A. The public works director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for non-compliance. Such consent orders shall include specific action to be taken by the user to correct the non-compliance 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 section 13.08.690, criminal

prosecution, and shall be judicially enforceable.

C. 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 ordinance and deemed appropriate by the public works director.

13.08.620 Compliance orders.

A. Whenever the public works director finds that a user has violated, or continues to violate, any provision of this ordinance, 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 non-compliance, 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 wastewater treatment plant. 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 ordinance and deemed appropriate by the public works director.

13.08.630 Administrative (show cause) hearing.

A. A user shall be afforded the opportunity to an administrative hearing to contest the city'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 administrative 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 fifteen days prior to the scheduled hearing date.

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

13.08.640 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 ordinance, a wastewater discharge permit or order issued by DOE, 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 wastewater treatment plant, wastewater treatment plant workers, or the public, or cause pass through, interference, or a violation of the wastewater treatment plants NPDES permit. The order issued by the public works director 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.

13.08.650 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 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 wastewater treatment plant, 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 wastewater treatment plant, 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 section 13.08.660, termination of treatment services (non-emergency), 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 from terminating wastewater collection and treatment services in an emergency situation, by barring entry, by physically interfering with city 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 public works director prior to the date of any administrative hearing authorized by this ordinance.

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

13.08.660 Termination of treatment services (non-emergency).

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 ordinance thereby preventing the implementation of any purpose of this ordinance;
2. Violated any provision of this ordinance including the discharge prohibitions and standards listed in section 13.08.310, industrial pretreatment requirements; or
3. Violated any lawful order of the city issued with respect to this ordinance.

B. For users holding permits to discharge to the city wastewater treatment plant, 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 shall not be a bar to, or a prerequisite for, taking any other action against the user.

13.08.670 Injunctive relief.

When the public works director finds that a user has violated (or continues to violate) any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, he may petition the Lewis County Superior Court

through the city 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 ordinance on activities of the user. The city 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.

13.08.680 Civil penalties.

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

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

C. The city shall petition the Lewis County 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.

13.08.690 Criminal prosecution.

A. A user which has willfully or negligently violated any provision of this ordinance, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than five thousand dollars 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 Chehalis municipal 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 ordinance, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance.

C. Where willful or negligent introduction of a substance into the wastewater treatment plant 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.

13.08.700 Water supply severance.

Whenever a user has violated or continues to violate any provision of this ordinance, 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.

13.08.710 Public nuisances.

A violation of any provision of this ordinance, 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 Chehalis municipal code governing such nuisances, including reimbursing the city for any costs incurred in removing, abating, or remedying said nuisance.

13.08.720 Performance bonds and liability insurance.

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 ordinance, unless such user, at the sole discretion of the public works director, either:

A. First files with the city a satisfactory bond, payable to the city, in a sum not to exceed a value determined by the public works director to be necessary to achieve consistent compliance; or

B. First submits proof that the user has obtained financial assurances sufficient to restore or repair wastewater treatment plant damage caused by its discharge.

13.08.730 Remedies non-exclusive.

The provisions in sections 13.08.610 through 13.08.720 of this ordinance are not exclusive remedies. The city reserves the right to take any, all, or any combination of these actions concurrently or sequentially against a non-compliant user or to take other actions as warranted by the circumstances.

13.08.740 Innovative settlements and supplemental environmental projects.

A. In any enforcement action allowed under this ordinance, the public works director may recommend, and the city 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 wastewater treatment plant 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 non-compliance; and,
4. The responsible party's technical and financial ability to successfully complete the project.

C. In enforcement actions taken by DOE, the city may make written recommendations either for, or against, an innovative settlement agreement with a non-compliant user based on the above criteria.

13.08.750 General prohibited discharge standards.

A. The city may allow an affirmative defense to an enforcement action brought against a user for non-compliance with the general and specific prohibitions in this section. 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 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 sections 13.08.670, injunctive relief, and 13.08.680, civil penalties.

13.08.760 State responsibility for administrative actions.

DOE is charged with permitting and regulating SIUs discharging to the city wastewater treatment plant. 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 DOE. Failure to conduct such coordination, however, shall not invalidate any action of the city authorized by this ordinance.

13.08.770 Notification of violation.

A. Whenever the public works director finds that any user has violated or is continuing to violate any provision of this ordinance, 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 to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

13.08.780 Violations and penalties.

Any person willfully violating any of the provisions of this ordinance shall be guilty of a misdemeanor. Any person found guilty of such violation shall be fined a sum not to exceed \$500.00.

13.08.790 Severability clause.

If any section, subsection, subdivision, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional or void, such invalidity shall not thereby affect the validity of the remaining portions of this ordinance.

13.08.800 Enforcement.

It shall be the duty of the employees of the public works department, police & fire services department, and community development department to give vigil and aid to the public works director in the enforcement of the provisions of this ordinance and to this end they shall report all violations thereof which come to their knowledge to the public works director.

13.08.810 Repeal.

Ordinance No. 696-B, passed the 13th day of August, 2001; and Ordinance No. 737-B, passed the 27th day of January, 2003, shall be, and the same hereby is, repealed.

13.08.820 Effective date.

The effective date of this ordinance shall be _____, 2011.

PASSED by the city council of the city of Chehalis, Washington, and **APPROVED** by its mayor, at a regularly scheduled open public meeting thereof this ____ day of _____, 2011.

Mayor

Attest:

City Clerk

Approved as to form and content:

City Attorney

ORDINANCE NO. 868-B

**AN ORDINANCE OF THE CITY OF CHEHALIS, WASHINGTON
ESTABLISHING A SYSTEM AND STRUCTURE OF RATES FOR THE
STORM AND SURFACE WATER UTILITY; REPEALING
ORDINANCE NO. 480-B, PASSED THE 14TH DAY OF SEPTEMBER,
1992; ORDINANCE NO. 775-B, PASSED THE 27TH DAY OF
SEPTEMBER, 2004; AND ORDINANCE NO. 792-B, PASSED THE
12TH DAY OF SEPTEMBER, 2005; AS CODIFIED IN THE CHEHALIS
MUNICIPAL CODE AS CHAPTER 13.28; AND ESTABLISHING THE
EFFECTIVE DATE HEREOF.**

**THE CITY COUNCIL OF THE CITY OF CHEHALIS, WASHINGTON, DO
ORDAIN AS FOLLOWS:**

13.28.010 Definitions.

As used in this chapter:

“Closed system” means a portion or type of the storm water system that contains or includes piping, manholes, catchbasins, and/or other enclosed facilities as part of the collection or transmission facilities.

“Customer” means a person in whose name service is rendered, as evidenced by the signature on the application or contract for that service, or, in the absence of a signed instrument, by the receipt and payment of bills regularly issued in his/her/its name regardless of the identity of the actual user of the service.

“Detention structure” means an approved permanent structure designed to store runoff for discharge at rates approximating what would have occurred under predevelopment conditions.

“Equivalent service unit (ESU)” means a configuration of development or impervious surfaces on a parcel, estimated to contribute an amount of runoff to the city’s storm and surface water drainage system which is approximately equal to that created by the average single-family residential parcel. One ESU is equal to 3,000 square feet of impervious surface area or any portion thereof.

“Impervious surface” means that hard-surfaced area which either prevents or retards the entry of water into the soil mantle and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions. Impervious surfaces may include, but are not limited to, rooftops, concrete or asphalt paving, walkways, patios, driveways, parking lots or storage areas, and oiled, macadam or other surfaces which similarly impede the natural infiltration or runoff of surface water. The city has measured, through aerial photography and land surface evaluation processes, the number of square feet of impervious surface on all non-single-family residential parcels.

“Open system” means a portion or type of the storm water system that does not contain or include piping, manholes, catchbasins, and/or other enclosed facilities as part of the collection or transmission facilities, and consists entirely of roadside or regional ditches, drainage canals or open channels, other than sections of culverts over driveways, roadways, or other facilities that cross the storm drainage systems.

“Parcel” means the smallest separately segregated unit or plot of land having an identified owner, boundaries, and surface area which is documented for tax purposes and given a tax account (lot) number by the county assessor.

"Parcel, developed" means any parcel which has been altered by grading or filling of the ground surface or by construction of any improvement or other impervious surface area, which affects the hydraulic properties of the parcel.

"Parcel, single-family residential" means any parcel of land which is improved with a dwelling unit for occupancy by a single family or a similar group of people. A single-family residential parcel also may be an individual dwelling, mobile home, flat, or unit in a multifamily building or portion thereof for occupancy as the home, residence, or sleeping place for one or more persons, provided each such dwelling, mobile home, flat, or unit is owned separately. If more than three of any dwellings, mobile homes, flats, or units occupy the same parcel of land, the parcel shall be considered a non-single-family parcel, and subject to charges as identified in CMC 13.28.030(F).

"Parcel, undeveloped" means any parcel which has not been altered by grading or filling of the ground surface, or by construction of any improvements or other impervious surface area which affects the hydraulic properties of the parcel.

"Retention structure" means an approved permanent structure that provides for the storage of runoff by means of a permanent pool of water or infiltration.

"Runoff" means that portion of precipitation either from rain or melted snow that ultimately reaches natural watercourses by flowing over the surface of the land.

"Utility" means the storm and surface water utility.

13.28.015 Storm and surface water capital facilities charges.

A. Storm and surface water capital facilities charges shall be, and the same hereby are, imposed for increased impervious surface area in the city, which storm and surface water capital facilities charges shall be paid for each ESU as follows: \$489.00 per ESU.

B. The number of ESUs used to determine the charges for storm and surface water capital facilities charges shall be based on measured impervious surface area.

13.28.020 System of charges – Applicability.

There is hereby imposed a system of rates and charges on each parcel of real property within the city served by or to which is available for service the storm water utility established by Chapter 13.24 CMC. The charges are found to be reasonable and necessary to fund the current administration, planning, design, construction, operation, maintenance, and repair of existing storm and surface water facilities; provided, however, that the city reserves the right to fix, alter, regulate, and control the rates and charges.

13.28.030 Charges for specific parcels and uses.

The following utility charges are established for all parcels of real property in the city:

A. Residential Parcels. The single-family residential charges shall apply to each parcel having one dwelling unit. The monthly charges for single-family unit storm water service shall be as follows:

Year	Amount per Unit
2005	\$4.89
2006	5.47
2007	5.95
2008	6.46

2009	6.84
2010	7.31

A residential parcel shall be deemed one ESU.

B. Undeveloped Parcels. Undeveloped parcels shall not be charged.

C. Parcels Located within a Flood Control District. Parcels located within a flood control district shall not be charged.

D. Parcels Containing a Detention Structure. The charge for all parcels containing a detention structure shall be based upon the total amount of measured impervious surface divided by the ESU and rounded to the nearest one-tenth whole number. The monthly service charge shall consist of the residential parcel charge for the first ESU and \$1.00 for each additional measured ESU:

Year	Amount per Unit
2005	\$4.89 plus \$1.00 per each additional ESU
2006	5.47 plus \$1.00 per each additional ESU
2007	5.95 plus \$1.00 per each additional ESU
2008	6.46 plus \$1.00 per each additional ESU
2009	6.84 plus \$1.00 per each additional ESU
2010	7.31 plus \$1.00 per each additional ESU

E. Parcels with a Retention Structure. The monthly charge for all parcels containing a retention structure shall be the same as the monthly charge for residential parcels.

F. Other Parcels. The charge for all other parcels shall be based upon the total amount of measured impervious surface divided by the ESU, and rounded to the nearest one-tenth whole number. The actual total monthly service charge shall be computed by multiplying the measured ESUs for a parcel by the following monthly unit rates:

Year	Amount per Unit
2005	\$4.89
2006	5.47
2007	5.95
2008	6.46
2009	6.84
2010	7.31

G. Limited-Access Highways, City Transportation System. State of Washington limited-access highways shall be excluded from being charged consistent with this ordinance and Chapter 90.03 RCW. The city transportation system, including surfaced and non-surfaced streets, alleys, and all other public roads located within city rights-of-way, shall be excluded from being charged consistent with this ordinance.

H. Storm water utility rates shall be as stated for the year 2007 and shall remain the same for a period of 12 months from the effective date of Ord. 828B, codified in this subsection. In all other respects, the terms and conditions of this section shall remain in full force and effect. At the end of the period of time for which rates are tolled at the 2007 rate, the council shall enact new legislation providing for storm water utility rates.

13.28.035 Storm water surcharge fees (latecomers fees).

A. The public works director may, at his discretion, establish and adopt storm water surcharge fees that, after their establishment, shall be imposed upon customers connecting to specifically designated storm water utility extension(s) and/or storm water system improvements in defined areas.

B. Such surcharge fees shall be based on criteria established within the standard latecomer agreement form created by the development review committee.

C. In order for a storm water surcharge fee to be established, in addition to or separately from a request approving and authorizing the installation and/or construction of a storm water utility extensions(s) or storm water system improvements, the developer, property owner, or other entity that installed and/or constructed such storm water utility extensions(s) or storm water system improvements, or proposed to install and/or construct storm water utility extension(s) or storm water system improvements, shall submit to the public works director a specific request (a latecomer agreement form created by the development review committee) to establish a storm water surcharge fee.

D. The public works director may require additional information from the developer, property owner, and or entity requesting the establishment of such storm water surcharge fee. The director may also deny the request to establish the storm water surcharge fee, or establish a different amount of storm water surcharge fee, other than the fee calculated in the standard latecomer agreement form. If a storm water surcharge fee is approved, the director may impose other conditions, limitations, and/or duration for said storm water surcharge fee.

E. The purpose of establishing such storm water surcharge fees is to reimburse developers, property owners, and other entities that installed and/or constructed storm water utility extension(s) or storm water system improvements for a portion of their costs for the installation and/or construction of storm water utility extension(s) or storm water system improvements, for which subsequent, nonparticipating future customers benefit. The city shall collect established surcharges, from such nonparticipating future customers, at the time storm water capacity charges are paid, and then reimburse the surcharge(s) to the developer, property owner or other entity that installed and/or constructed such storm water utility extension(s) or storm water system improvements, for which such surcharge(s) was established.

F. Such storm water surcharge fees shall be in addition to any other charges that may be applicable.

13.28.040 Appeal of ESU charges.

A. Any person, within 60 days after being notified of the determination of ESUs for a particular parcel(s) who considers the ESU determination or storm water utility charge calculation(s) applied to the parcel to be inaccurate, or who otherwise disagrees with a storm water utility rate determination, may apply to the public works director for a rate adjustment, stating in writing the grounds of the appeal.

B. Any person, after making or causing changes to a particular parcel(s) where such changes or modifications, reduce the total amount of impervious area of the parcel, may apply to the director for a redetermination of ESU(s). The director shall review the case file and determine whether a readjustment is warranted. If the director determines that an adjustment is warranted, the director shall cause the redetermination of impervious area and assignment of current ESU(s) to take place.

C. An person, after making or causing changes to a particular parcel(s) where such changes or modifications provide mitigation that both exceeds that required by the city as a condition of a development and is available for the benefit of other developed

parcel(s), may apply to the director for a rate adjustment, stating in writing the reason or grounds of the request. The director shall review the case file and determine whether a rate adjustment is warranted. If the director determines that an adjustment is warranted, the actual total monthly service charge shall be computed by multiplying the measured ESUs for the parcel by the following monthly unit rate:

Year	Amount per Unit
2005	\$3.86
2006	4.32
2007	4.70
2008	5.10
2009	5.40
2010	5.77

D. Appeals of any decisions made by the director may be brought before the city manager who may direct the reevaluation of the appeal. Appeals beyond the city manager may then be brought before council.

E. Nothing in this ordinance shall be construed to grant a right to judicial review, which does not otherwise exist in law. (In all cases, the decision of the council shall be final and conclusive.

13.28.050 Billing of charges.

Utility rates and charges for each parcel of developed real property within the city shall be computed on a bimonthly basis for residential accounts and on a monthly basis for non-single-family accounts. The amount to be billed shall be included on the existing water/sewer bill as a separate line item. A "storm water only" statement will be sent to those property owners who are not city water or sanitary sewer customers. The city shall bill the owner of the served property for the payment of utility rates and charges specified in this ordinance; however the owner may have the bills mailed to a tenant, or agent, but this shall not relieve the owner from liability for utility rates and charges.

13.28.060 Nonpayment of bills – Storm water service discontinuance conditions.

A. Payment for storm water services shall be due on the 20th day of the month. Unpaid statements become delinquent on the 21st day of the month, or the following business day, and a delinquency charge, as established by city ordinance, of 10 percent of the past due amount with a minimum penalty of \$1.00, shall be added to each unpaid account and a delinquent statement mailed. Payment of the outstanding balance must be received within seven days or water and/or sewer service shall be disconnected in accordance with the provisions of CMC 13.04.500 and 13.08.500, and a lien may be placed upon the property being served by filing a notice with the city clerk. The city clerk shall send a written notice of filing to the recorded owner of the property.

B. For any customer who is not a water and/or sanitary sewer customer and who has not paid a storm water bill within 40 days of the due date, a lien may be placed upon the property being serviced by filing a notice with the city clerk. The city clerk shall send a written notice of filing to the recorded owner of the property.

13.28.070 Nonpayment of bills – Penalties for delinquency.

A delinquency charge equal to 10 percent of the total storm water services charge shall be added to each unpaid bill.

13.28.080 Utility billing – Credit priority for payments.

A. In the event that any person, firm, or corporation shall tender as payment of water, sewer or storm water services an amount insufficient to pay in full all of the charges so billed, credit shall be given first to the storm water utility charges, second to the charges for sanitary sewer service, and lastly to the charges for water service.

B. In the event that any utility account shall become delinquent, water service may be terminated by the city in accordance with the provisions delineated in CMC 13.04.500. Such utility account shall be discontinued until all delinquent rates or charges for the use of the storm water service, sanitary sewer service, and water service shall have been paid in full.

13.28.090 Storm water utility account – Annual report.

A. All money collected through utility rates and charges shall be deposited in a storm water utility account, water utility account or in the sanitary sewer utility account as established and maintained by the finance manager.

B. The finance manager and the public works director shall conduct an annual review of the utility's operations, the total costs of operation and maintenance of the storm water retention, detention, collection and conveyance systems, and the schedule of rates and charges. They shall submit a report to the city manager by June 1st of each calendar year, summarizing the review and containing recommendations for rate adjustments to:

1. Maintain the proper proportionate distribution of operation and maintenance costs among users and user classes; and
2. Ensure generation of sufficient revenue to pay the total operation and maintenance costs for the proper operation and maintenance, and improvement of the utility.

13.28.100 Appeal of rates, charges or other determinations.

A. Any person making a timely payment of the city's total utility bill who considers the utility rates and charges for a parcel to be inaccurate, or who otherwise disagrees with a utility rate determination, may apply to the public works director for a rate adjustment, stating in writing the grounds of the appeal. The director will review the case file and determine whether an adjustment is necessary to provide for reasonable and equitable application of the utility rate charges.

B. Appeals of the decisions made by the director may be brought before the city manager who may direct the reevaluation of the appeal. Appeals beyond the city manager may then be brought before the council.

C. Any appeal under this section shall be filed with the director no later than 20 days after the billing. Any subsequent appeal shall be brought within 20 days of the date of the decision appealed from.

D. Nothing in this ordinance shall be construed to grant a right to judicial review, which does not otherwise exist in law. In all cases, the decision of the council shall be final and conclusive.

13.28.110 Annual review.

The revenue generated as a result of this ordinance shall be reviewed annually and compared to expectations and sufficiency, with a report to the city council.

13.28.120 Effective Date.

The effective date of this ordinance shall be the _____, 2011

PASSED by city council of the city of Chehalis, Washington, and **APPROVED** by its mayor, at a regularly scheduled open public meeting thereof this ___ day of _____, 2011.

Mayor

Attest:

City Clerk

Approved as to form and content:

City Attorney

**CITY OF CHEHALIS
AGENDA REPORT**

TO: The Honorable Mayor and City Council

FROM: Bob Nacht, Community Development Director
Rick Sahlin, Interim Public Works Director
Judy Schave, City Clerk

DATE: February 1, 2011

SUBJECT: Ordinance No. 869-B, First Reading – Vacating a Portion of NW Louisiana Avenue.

ISSUE

The city received a petition to vacate a portion of excess right-of-way along NW Louisiana Avenue. A public hearing was held on this petition, and the Council directed the administration to prepare an ordinance for the Council's consideration.

DISCUSSION

There are two areas proposed for vacation to allow the abutting property owner an opportunity to erect a security fence along the property. In considering the proposal, and conversations with the petitioner, the administration requested that the petition include dedicating a small triangle of the petitioner's property to form a straight right-of-way line at the required width along the entire property.

The petitioner has also proposed conveying (quitclaiming) a triangular portion of unused property to the city as part of either the Wastewater Facility property, or open space along with the city's other property in the vicinity.

There were no comments presented at the public hearing on the petition. The city's Development Review Committee (DRC) continues to communicate with the petitioner to make sure both the private property and the right-of-way benefit from this proposal.

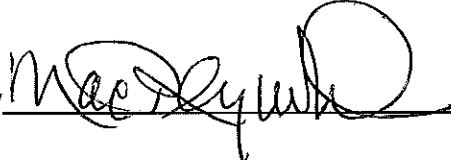
This ordinance is being presented for the council's consideration on second and final reading.

RECOMMENDATION / COUNCIL ACTION DESIRED

The administration recommends that the council pass Ordinance No. 869-B on second and final reading.

SUGGESTED MOTION

I move that the council pass Ordinance No. 869-B on second and final reading.

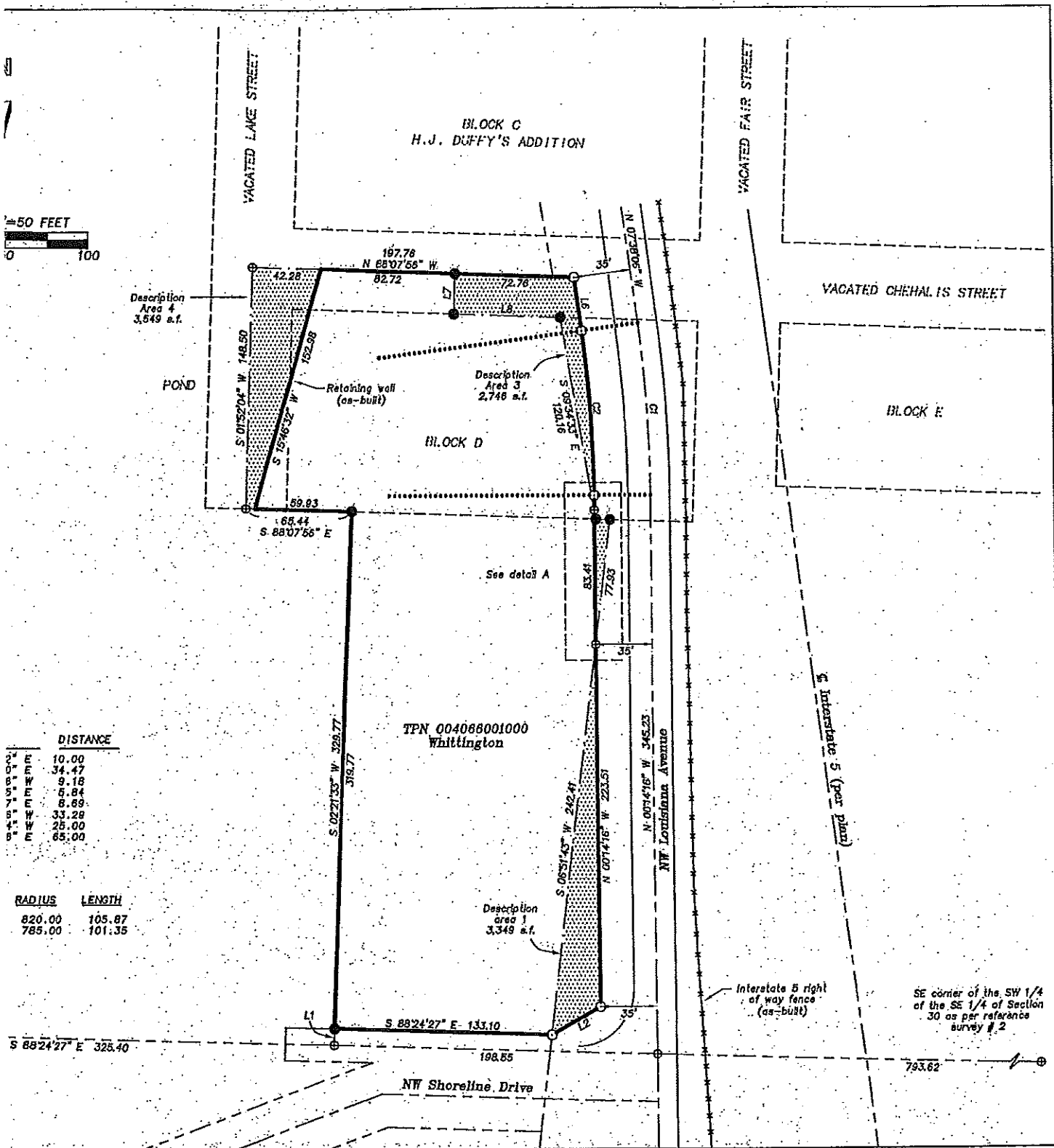
Reviewed by  _____ City Manager



	DISTANCE
0.25	E 10.00
0.50	E 34.47
0.75	E 9.18
1.00	E 5.84
1.25	E 8.69
1.50	E 33.29
1.75	E 25.00
2.00	E 65.00

RADIUS	LENGTH
820.00	105.87
785.00	101.35

S 88°24'27" E 325.40



Surveyor's Certificate
 This map correctly represents a survey made by me or under my direction in conformance with the requirements of the Survey Recording Act at the request of Don Whittington in November of 2010.



BUTLER SURVEYING INC.
 475 NW CHEHALIS AVENUE
 P.O. BOX 149, CHEHALIS, WA 98632
 800/748-8809

Drawn C. Butler	Date 11-9-10
Checked	Job No. 08-72
Scale 1" = 50'	Sheet 1 of 2

ORDINANCE NO. 869-B

**AN ORDINANCE OF THE CITY OF CHEHALIS,
WASHINGTON, PROVIDING FOR THE VACATION OF
TWO PORTIONS OF NW LOUISIANA AVENUE;
PROVIDING THAT THIS VACATION SHALL BE
EFFECTIVE ONLY UPON SUCH DATE AS THE OWNER
OF THE REAL PROPERTY ABUTTING SAID VACATION
SHALL COMPENSATE THE CITY OF CHEHALIS IN AN
AMOUNT EQUAL TO THE APPRAISED VALUE OF SAID
VACATED RIGHT-OF-WAY; AND PROVIDING FOR
ACCEPTANCE OF DEDICATED REAL PROPERTY AS
PARTIAL COMPENSATION THEREFOR.**

Whereas, the city of Chehalis received a petition from Don Whittington for vacation of two portions of NW Louisiana Avenue more particularly described in said petition; and,

Whereas, said petition provides that the petitioner is offering two areas of real property for dedication and conveyance to the city as partial compensation for said vacated right-of-way; and,

Whereas, pursuant to RCW 35.79.010, the city Council of the city of Chehalis did, at a regularly scheduled meeting on the 13th day of December, 2010, adopt Resolution No. 15-2010, setting the date of January 10, 2011, at the hour of 6:05pm as the time for a public hearing on said petition, which date was not less than twenty (20) days nor more than sixty (60) days after the adoption of said Resolution; and,

Whereas, The city Council of the city of Chehalis held a public hearing to consider said petition on the 10th day of January, 2011, after due notice to the owners of all property abutting and adjacent to the two areas identified in said petition as required by law; now, therefore,

**THE CITY COUNCIL OF THE CITY OF CHEHALIS, WASHINGTON, DO ORDAIN
AS FOLLOWS:**

Section 1.

The following described right-of-way situate within the city of Chehalis, Lewis County, Washington, to-wit:

Area 1 - That portion of the Southwest Quarter of the Southeast Quarter of Section 30, Township 14 North, Range 2 West, W.M. in Lewis County, Washington described as follows:

COMMENCING at the southwest corner of said subdivision; thence S88°24'27"E along the south line of said subdivision a distance of 325.40 feet; thence N02°21'33"E a

distance of 10.00 feet; thence S88°24'27"E parallel with said south line a distance of 133.10 feet to the westerly margin of NW Louisiana Avenue and the True Point of Beginning; thence N60°07'50"E a distance of 34.47 feet; thence N00°14'16"W a distance of 223.51 feet to said westerly margin; thence S06°51'43"W along said westerly margin a distance of 242.41 feet to the True Point of Beginning.

Containing 3,349 square feet,

Area 2 – That portion of the Southwest Quarter of the Southeast Quarter of Section 30, Township 14 North, Range 2 West, W.M. in Lewis County, Washington described as follows:

COMMENCING at the southwest corner of said subdivision; thence S88°24'27"E along the south line of said subdivision a distance of 325.40 feet; thence N02°21'33"E a distance of 10.00 feet; thence S88°24'27"E parallel with said south line a distance of 133.10 feet to the westerly margin of NW Louisiana Avenue; thence N60°07'50"E a distance of 34.47 feet; thence N00°14'16"W a distance of 306.92 feet to a point on said westerly margin and the True Point of Beginning; thence continuing N00°14'16"W a distance of 9.18 feet to a curve to the left whose radius point bears S89°45'44"W a distance of 785.00 feet; thence Northerly along said curve through a central angle of 07°23'50" an arc distance of 101.35 feet; thence N07°38'06"W a distance of 33.29 feet to the centerline of vacated Chehalis Street; thence N88°07'56"W along said centerline a distance of 72.76 feet; thence S01°52'04"W a distance of 25.00 feet to the south margin of said vacated Chehalis Street; thence S88°07'56"E along said south margin a distance of 65.00 feet to said westerly right of way; thence S09°34'33"E along said westerly right of way a distance of 120.16 feet to the True Point of Beginning.

Containing 2,746 square feet,

shall be, and the same hereby is, vacated.

Section 2.

The two areas described in said petition as proposed for conveyance or dedication to the city may be quitclaimed to the city as part of this transaction, and the appraised value of said real property may be credited toward the compensation required to effect said vacation.

Section 3.

This ordinance shall become effective only upon the date that the owner of the real property adjacent and abutting said vacated rights-of-way shall compensate the city of Chehalis in an amount equal to the appraised value of the rights-of-way so vacated.

PASSED by the City Council of the city of Chehalis, Washington, and **APPROVED** by
it's mayor this ____ day of _____, 2011.

Mayor

Attest:


City Clerk

Approved as to Form:

City Attorney

CITY OF CHEHALIS

AGENDA REPORT

DATE: January 26, 2011
TO: The Honorable Mayor and City Council
FROM: Merlin G. MacReynold, City Manager 
SUBJECT: Resolution No. 3-2011 – Providing Support for TransAlta

ISSUE

The Chehalis City Council requested the administration prepare a resolution for their consideration to show support for TransAlta.

DISCUSSION

On April 26, 2010, Governor Chris Gregoire, the Washington Department of Ecology and TransAlta officials signed a Memorandum of Understanding to outline a process of reducing greenhouse gas (GHG) emissions in Washington State by transitioning away from coal to cleaner renewable energy.

TransAlta's Centralia plant is the single largest source of power in our state and the largest emitter of GHG. For this reason, the Governor asked TransAlta to cut its GHG emissions in half by 2025.

A Legislative team was formed to monitor input and track progress of the negotiations. This bi-partisan team includes: Senator Phil Rockefeller, Kitsap County (Chair of the Environment, Water & Energy Committee); Senator Dan Swecker, Rochester; Representative Gary Alexander, Olympia; and Representative Jeff Morris, Mount Vernon.

The Legislature will ultimately play a role in significantly limiting and eventually ending the use of coal as a fuel source for TransAlta. It is believed the team will create the opportunity for the Legislature to add greater transparency and accountability to the process.

At the regular meeting of the city council on January 24, 2011, Councilor Daryl Lund suggested a resolution be prepared to show the city's support for TransAlta.

RECOMMENDATION/COUNCIL ACTION DESIRED

The administration recommends that the council adopt Resolution No. 3-2011 on first and final reading.

SUGGESTED MOTIONS

I move that the council adopt Resolution No. 3-2011 on first and final reading.

RESOLUTION NO. 3-2011

**A RESOLUTION OF THE CITY OF CHEHALIS, WASHINGTON,
PROVIDING SUPPORT TO TRANSALTA FOR CONTINUED
OPERATION OF THE CENTRLAIA COAL PLANT**

WHEREAS, TransAlta has been an important Lewis County neighbor and a fellow community member since 1909; and

WHEREAS, Coal powered energy provides the stability and consistency that we all depend on every day for power to our homes, our businesses, our hospitals, our schools and other critical services; and

WHEREAS, TransAlta has transformed over the last century to become an experienced and well respected power generator and wholesale marketer of electricity; and

WHEREAS, TransAlta has dedicated the majority of its planned growth capacity to renewal sources like wind, hydro, biomass and geothermal; and

WHEREAS, TransAlta has grown to become Canada's largest investor-owned wholesale power generator and marketing company, with approximately \$3 billion in annual revenue, \$9 billion in assets, and power plants in Canada, the United States, and Australia; and

WHEREAS, TransAlta provides several hundred local jobs and maintains a safe work environment for employees and contractors; and

WHEREAS, TransAlta has invested more than \$300 million on pollution controls that insures Washington has cleaner power today and into the future and has agreed to voluntarily reduce mercury emissions beginning in 2012; and

WHEREAS, TransAlta is a major supporter and contributor to this region and invests almost \$100 million into our local and state economy each year.

**THE CITY COUNCIL OF THE CITY OF CHEHALIS, WASHINGTON, DO
RESOLVE AS FOLLOWS:**

Section 1. The City of Chehalis hereby recognizes the efforts that TransAlta is making to preserve and increase employment in our community and the significant role they have taken in advancing clean-power technology.

Section 2. TransAlta is to be commended for proactively addressing environmental concerns; for continuing to generate safe, reliable and affordable power, and for their commitment to sustainable growth that will benefit us all.

Section 3. The City of Chehalis extends its support to TransAlta for the continued operation of the Centralia Coal Plant and the significant contribution they make to our local and state economy.

ADOPTED by the City Council of the city of Chehalis, Washington, and **APPROVED** by its Mayor, at a regularly scheduled open public meeting thereof this ___ day of _____, 2011.

Mayor

Attest:

City Clerk

Approved as to form and content:

City Attorney

**CITY OF CHEHALIS
AGENDA REPORT**

Date: January 27, 2011
To: The Honorable Mayor and City Council
From: Judy Schave, City Clerk
Subject: Resolution No. 4-2011 - Surplus Property

ISSUE

Several city departments have certain property that is no longer used or needed. State law requires that property must first be declared surplus by the city council before being sold or disposed of.

DISCUSSION


A resolution has been prepared for the council's consideration. The items listed on Exhibit "A" will be sold at public auction in March.

RECOMMENDATION/COUNCIL ACTION DESIRED

The administration recommends that the council adopt Resolution No. 4-2011 on first and final reading.

SUGGESTED MOTIONS

I move that the council adopt Resolution No. 4-2011 on first and final reading.

REVIEWED BY:  _____, City Manager

RESOLUTION NO. 4-2011

**A RESOLUTION OF THE CITY OF CHEHALIS,
WASHINGTON, DECLARING PERSONAL PROPERTY OF
THE CITY OF CHEHALIS TO BE SURPLUS AND OF NO
FURTHER USE TO THE CITY, AND DIRECTING THE
SALE AND DISPOSITION THEREOF.**

**THE CITY COUNCIL OF THE CITY OF CHEHALIS, WASHINGTON, DO
RESOLVE AS FOLLOWS:**

Section 1. The following described personal property of the city of Chehalis, Washington, a municipal corporation, shall be, and the same hereby is, declared to be surplus and no longer of necessary use.

1. See Exhibit "A" Attached

Section 2. The personal property described herein in shall be disposed of by the City Manager.

ADOPTED by the City Council of the city of Chehalis, Washington, and **APPROVED** by its Mayor, at a regularly scheduled open public meeting thereof this ____ day of _____, 2011.

Mayor

Attest:

City Clerk

Approved as to form and content:

City Attorney

Exhibit "A"

Year	Make	Model	License No .	Vin No. or S/N
Community Services				
'92	Chevy	Caprice	09150D	1G1BL5372NR129732
'88	Chevy	Truck	19445D	1GCDC14Z5JZ227981
'85	Chevy	Truck	14894D	2GCDC14H4F1184242
'92	Ford	Taurus	28570D	1FALP50U8NG176176
'87	Dodge	Truck	19425D	1B7FD14H7HS484687
'92	Ford	Taurus	19459D	1FACP52U9NG239041
--	Pressure Washer	120 (City ID tag #04000)	-	TY0120A296171
--	--	Generator	-	511740YT
'98	Airens	Mower	-	005385
Public Works				
'91	Chevy	S-10	04220D	1GCCS19E1M8149262
'96	Ford	Crown Vic	14900D	2FALP71W2TX172126
Police				
'94	Ford	Truck	B01287M	1FTET15N7RLA56513
'94	Pontiac	Grand Prix	11119D	1G2WJ52MXRF261252

**CITY OF CHEHALIS
AGENDA REPORT**

DATE: February 1, 2011
TO: The Honorable Mayor and City Council
FROM: Kelvin Johnson, Fire Chief
SUBJECT: Resolution 5-2011 – Authorizing the City’s Participation in a Regional Fire Authority Planning Committee

ISSUE

The need to explore the options available to provide fire and associated emergency services for the City of Chehalis.

DISCUSSION

The discussion about this issue has been ongoing for numerous years, both formally and informally. It has included ideas of expanding current services, staying with the status quo, the Cities annexation of the Port area, joining with other fire departments in some format, and conducting operations via mutual and automatic aid as we are doing currently.

In recent months elected officials, fire department administrators and line personnel (both career and volunteer) have been meeting to discuss this issue once again. Agencies currently exploring options are the City of Chehalis, Riverside Fire Authority, Fire District #6 and Fire District #5. This group has discussed legal options available to cities and fire districts for joining services. We are at the point of researching information and putting together a plan for what might work on a regional level.

The group’s recommendation at this point is utilize the Regional Fire Authority Planning Committee (RFAPC) model, as authorized by the legislature, to conduct this planning process and information gathering. As per RCW, a formal process is needed (Attachment A). Also included is a proposed draft set of Rules and Operating Procedures that the RFAPC could discuss, edit as desired, finalize and adopt (Attachment B).

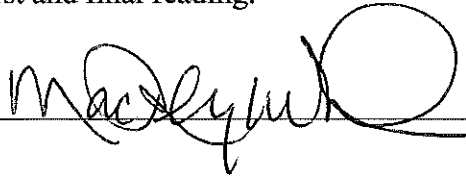
This allows only for a planning process. The final decision after this planning process will be for the council and others to decide what plan, participating jurisdictions, if any, would be placed before the voters.

RECOMMENDATION/COUNCIL ACTION DESIRED

The administration recommends that the council adopt Resolution No. **5-2011** formalizing their participation in the RFAPC on first and final reading.

SUGGESTED MOTION

I move that the council adopt Resolution No. 5-2011 authorizing the cities participation in a RFAPC on first and final reading.

Reviewed by  City Manager

RESOLUTION NO. 5-2011

**A RESOLUTION OF THE CITY OF CHEHALIS, WASHINGTON,
APPROVING THE FORMATION OF A REGIONAL FIRE
PROTECTION SERVICE AUTHORITY PLANNING COMMITTEE**

WHEREAS, any two or more adjacent fire protection jurisdictions may create a regional fire protection service authority and convene a regional fire protection service authority planning committee; and

WHEREAS, the Chehalis City Council has determined that it is in the best interest of the City of Chehalis to engage in the planning process for a regional fire protection service authority authorized in Chapter 52.26 RCW; and

WHEREAS, RCW 52.26.030(2) requires that each participating jurisdiction shall appoint three elected officials to the authority planning committee.

NOW, THEREFORE, BE IT RESOLVED by the City of Chehalis that:

Section 1. The City of Chehalis shall participate as part of a planning committee to explore the formation of a Regional Fire Protection Service Authority and selected Chehalis City Councilors shall serve on the Planning Committee.

Section 2. The City of Chehalis representatives shall be Councilor Dennis Dawes, _____ (insert councilmember name) _____, and _____ (insert councilmember name) _____.

ADOPTED by the City Council of the city of Chehalis, Washington, and **APPROVED** by its Mayor, at a regularly scheduled open public meeting thereof this ____ day of _____, 2011.

Mayor

Attest:

City Clerk

Approved as to form and content:

City Attorney

**Regional Fire Authority Planning Committee
(RFAPC)**

Rules and Operating Procedures

Rule One – Meetings

- 1. Regular Meetings:** the Planning Committee shall schedule to meet regularly on the TBD of each month, from 00:00 – 00:00 hours, at either the add facility or location name.

The Chair may cancel a meeting if there is no business to come before the Planning Committee.

If more than one meeting per month is required, the date, time, and location will be approved by the Planning Committee.

- 2. Items of Business:** The Committee shall identify, prior to each month's meeting, an agenda that shall consist of the following items with the sequence to be determined by the Committee Chair:

- A. Call to order
- B. Approval of the minutes
- C. General business
- D. Committee Member reports
- E. Citizen comments
- F. Other business

- 3. Quorum:** A quorum of the Planning Committee will be insert # TBD **Committee Members**. Each representative of the RFAPC who is present at the meeting shall be entitled to cast one vote. However, no vote/action shall be taken by the RFAPC unless at least two from each jurisdiction are present at a meeting. Actions shall be affirmed by a majority vote.

Created:
Adopted:
Revised:

4. **Open Public Meetings Act:** All meetings shall be conducted in conformity with the Open Public Meetings Act (RCW 42.30).
5. **Appearance of Fairness / Conflict of Interest:** In all its dealings, the RFAPC and its individual Members shall be governed by RCW 42.36 (Appearance of fairness doctrine); RCW 42.20 (Misconduct of Public Officers) and RCW 42.52 (Ethics in Public Service).

Rule Two – Presiding Officer Duties

1. **Conduct of Meeting:** The Presiding Officer at all meetings of the RFAPC will be the Chair of the Planning Committee (*add elected officials name*), or in the absence of the Chair, the First Vice-Chair (*add elected officials name*), shall conduct the business and deliberations of the Planning Committee under these rules.

The Chair shall:

- A.) Preserve order and decorum at the Planning Committee meetings at all times;
 - B.) Observe and enforce all rules adopted by the Planning Committee;
 - C.) Decide all questions on order, in accordance with those rules, subject to a challenge;
 - D.) Recognize members of the Committee in order in which they request the floor;
 - E.) The Presiding Officer, as a member of the Planning Committee, shall have only those rights and shall be governed in all matters and issues by the same rules and restrictions as other committee members.
2. **Other Committees:** The Chair shall make other committee (sub-committee and advisory) assignments, subject to approval of the Planning Committee. To the degree possible, assignments will be consistent with special skills, interests and time constraints.
 3. **Chair and Vice-Chairs:** The Chair and Vice-Chair shall be elected for a one year term (*date through date*) by a majority of the Committee Members at the start of the first meeting of each *date*, or at such time as necessary due to a vacancy.
 4. **Executive Committee:** The Chair and Vice-Chair shall serve as the Executive Committee for the Planning Committee, and is authorized to act

on behalf of the Planning Committee in between meetings only as authorized by the Planning Committee.

Rule Three – Debates

- 1. Interruption:** No Member, including the Committee Chair, shall interrupt or argue with any other Member while such member has the floor, except as otherwise provided in these rules.
- 2. Courtesy:** All speakers, including Committee Members, during comments, discussion, or debate of any issue, shall address their comments to the Chair with courtesy and proper deportment. Comments shall not contain personalities, derogatory remarks or insinuations toward any member of the Committee, Staff, and Public, but shall be confined to facts that are germane and relevant to the issue.
- 3. Transgression:** Upon transgression of these rules, the Chair shall call such person to order, in which case that person shall be silent except to continue in order. If the Chair transgresses these rules, or fails to call a transgressor to order, any other member of the Committee may, under a point of order, call the transgressor to order.
- 4. Challenge to Ruling:** Any Member of the Committee shall have the right to challenge any action or ruling of the Chair, or Member, as the case may be, in which case the decision of the majority of the members of the Committee present, including the Committee Chair shall govern.

Rule Four – Parliamentary Procedure

- 1. Procedure Guide:** The committee shall abide by Robert's Rules of Order which is intended to be used as a guide to govern the conduct of business of the Planning Committee.

Rule Five – Miscellaneous

- 1. Dissolution:** The Planning Committee may dissolve itself at any time by a majority vote of the total membership of the Planning Committee. Any participating fire protection jurisdiction may withdraw upon thirty (30) calendar days written notice to the other jurisdictions. RCW 52.26.030.
- 2. Amendments to Rules and Procedures:** The Planning Committee may make amendments as needed.
- 3. Prepare Minutes:** Subsequent to each meeting, the RFA Steering Committee Secretary, or designee, shall be assigned to prepare brief and

concise minutes of all Committee meetings and submit the same to the Committee for approval. Such minutes shall contain an accurate accounting of official Committee business. In addition, all RFAPC meetings will be recorded for future reference, if needed. The recorded meetings will be retained by the RFASC Secretary, in perpetuate.