

DALLAS CITY COUNCIL

AGENDA

Mayor Jim Fairchild Presiding

Monday, May 19, 2008, 7:30 PM

Dallas City Hall*
187 SE Court Street
Dallas, OR 97338

All persons addressing the Council will please use the table at the front of the Council. All testimony is electronically recorded. Public participation is encouraged. If you desire to speak on any agenda item, please raise your hand to be recognized after the Mayor calls the item, or sign in on the provided card. If you wish to address the Council on any item not on the agenda, you may respond as the Mayor calls for questions and/or comments from the audience.

1. ROLL CALL

2. APPROVAL OF MINUTES

- 2.1. Approval of minutes of the May 5, 2008, Council meeting.
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3. REPORTS OR COMMENTS FROM COUNCIL MEMBERS

4. QUESTIONS AND/OR COMMENTS FROM THE AUDIENCE

5. REPORTS OF SPECIAL COMMITTEES AND CITY OFFICERS

5.1. City Manager's Reports

- a. City Manager Six Month Performance Review
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- b. City/School Workshop
-

- c. Report on April 8, 2008, Planning Commission meeting.
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- d. Bills of the City for the month of April.
-

- e. Other.
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6. COMMUNICATIONS AND PETITION

- 6.1. Allied Waste Services request for increase in garbage and collection rates
-

6.2 OLCC Application for a new establishment at 628 SE Jefferson Street

6.3 Polk County Use of Deadly Physical Force Response Plan

7. PUBLIC HEARINGS

7.1 A public hearing on the recommendation for approval of a zone change on a 15.7 acre portion of 1130 W Ellendale Avenue upon the request of Raymond Baker and Daniel Carver, owners of record.

8. RESOLUTIONS

8.1. Resolution No. 3152: A Resolution establishing a schedule of rates and fees to be paid by persons using the Dallas Aquatic Center and repealing Resolution No. 2996.

9. FIRST READING OF ORDINANCE

9.1. Ordinance No. 1686: An Ordinance repealing Sections 4.000 through 4.298 of the Dallas City Code, relating to Public Sewers, Private Sewage Disposal, Building Sewers and Connections, and Pretreatment; and adopting new provisions in lieu thereof.

10. SECOND READING OF ORDINANCE

11. OTHER BUSINESS

12. ADJOURNMENT

Note: There will be meetings of the Budget Committee and the Community Development Commission Urban Renewal Agency Budget Committee following the Council meeting.

*Dallas City Hall is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to the City Manager's Office, 503-831-3502 or TDD 503-623-7355.

DALLAS CITY COUNCIL
Monday, May 5, 2008
Council Chambers

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The Dallas City Council met in regular session on Monday, May 5, 2008, at 7:30 p.m. in the Council Chambers of City Hall with Mayor Fairchild presiding.

ROLL CALL

Council members present were: Council President Ken Woods, Jr., Councilor Brian Dalton, Councilor Warren Lamb, Councilor Jackie Lawson, Councilor Kevin Marshall, Councilor Wes Scroggin, Councilor David Shein, Councilor Dave Voves and Councilor LaVonne Wilson.

Also present were: City Manager Jerry Wyatt, City Attorney Lane Shetterly, Assistant City Manager Kim Marr, Police Chief Jim Harper, Fire Chief Bill Hahn, Public Works Director Fred Braun, Community Development Director Jason Locke, Finance Director Marcia Baragary, and Deputy City Recorder Emily Gagner.

APPROVAL OF MINUTES

Hearing no corrections, Mayor Fairchild declared the minutes of the April 21, 2008 Council meeting approved as presented.

REPORTS OR COMMENTS FROM COUNCIL MEMBERS

EMPLOYEE LENGTH OF SERVICE AWARD PRESENTATION

Mayor Fairchild presented an Employee Length of Service award to Les Caudill, explaining that Les runs the street sweeper and has worked for the City for 20 years.

COMMITTEE REPORTS OF APRIL 28, 2008

Building and Grounds Committee Meeting – Councilor Lamb, Chair

Councilor Warren Lamb reported on the topics presented at the Building and Grounds Committee meeting as included in the agenda packet. He indicated the proposed high school sign does not meet current sign code requirements. City Manager Jerry Wyatt noted there are five sections of the sign code with which this proposal is not in compliance. Mr. Wyatt added there are some additional concerns due to the proposed location's proximity to a crosswalk, and the requirements for a sign of this type on a State highway. Council President Ken Woods commented that the school should find a better location, since the current location on a curve makes reading the sign difficult. Several Councilors indicated the school could look into a partnership with the Chamber of Commerce to combine their sign at the Main/Jefferson Y with the proposed new sign. Mayor Fairchild explained staff will get in touch with the High School with the discussion points and try to come up with solutions to bring back to the Council.

Councilor Lamb discussed the proposed Dallas Aquatic Center rate revisions. Councilor Lamb moved to direct the City Attorney to draft a Resolution to adopt the proposed Aquatic Center rate revisions. Councilor Shein asked how the new rates and offers would be publicized, and Community Development Director Jason Locke stated he and staff are working on that now. The motion was seconded and **CARRIED UNANIMOUSLY** with Council President Ken Woods, Jr., Councilor Brian Dalton, Councilor Warren Lamb, Councilor Jackie Lawson, Councilor Kevin Marshall, Councilor Wes Scroggin, Councilor David Shein, Councilor Dave Voves and Councilor LaVonne Wilson voting YES.

Councilor Lamb discussed the proposed building permit fee increases. Councilor Lamb moved to direct the City Attorney to draft a Resolution to adopt the proposed building permit fee increases. City Attorney Lane Shetterly noted these increases have to be reported to the State Building Code department forty-five days before it is considered by the Council, so this will not be before the Council before June. The motion was seconded and **CARRIED BY A MAJORITY** with Council President Ken Woods, Jr., Councilor Brian Dalton, Councilor Warren Lamb, Councilor Kevin Marshall, Councilor Wes Scroggin, Councilor David Shein, Councilor Dave Voves and Councilor LaVonne Wilson voting YES and Councilor Jackie Lawson voting NO.

1 Public Works Committee – Councilor Lawson, Chair

2 Councilor Lawson reviewed the topics discussed at the Public Works Committee meeting as
3 presented in the agenda packet.

4 Public Works Director Fred Braun reviewed his Levens Street Bridge pavement smoothness
5 report. Councilor Brian Dalton noted one reason the asphalt cap on the bridge was rejected was
6 because the smooth asphalt makes it less skid resistant. However, he looked at the other bridges
7 in town and they all have a smooth surface. Councilor Dalton added he would like to see the
8 bridge fixed. Councilor Wes Scroggin stated the Levens Street Bridge is smoother than the
9 bridge at Fir Villa, adding he can't see, given the current budget situation, putting more money
10 into this right now.

11 Councilor Lawson discussed the proposed changes to Chapter Four of the Dallas City Code,
12 noting it mainly changes pretreatment requirements. Councilor Lawson moved to direct the City
13 Attorney to draft an Ordinance to amend Chapter Four of the Dallas City Code. City Attorney
14 Shetterly pointed out the summary of changes to the Ordinance, noting the changes are now
15 being reviewed by the State. The motion was seconded and CARRIED UNANIMOUSLY with
16 Council President Ken Woods, Jr., Councilor Brian Dalton, Councilor Warren Lamb, Councilor
17 Jackie Lawson, Councilor Kevin Marshall, Councilor Wes Scroggin, Councilor David Shein,
18 Councilor Dave Voves and Councilor LaVonne Wilson voting YES.

19 Councilor Lawson discussed a section of sidewalk on LaCreole Drive that is missing, stating
20 staff is recommending the Council compel the property owner to install the sidewalk. Mr. Wyatt
21 explained staff is working with the property owner to get that done.

22 MAYOR'S APRIL MONTHLY REPORT

23 There were no questions regarding the Mayor's April report.

24 COUNCIL PRESIDENT'S APRIL MONTHLY REPORT

25 There were no questions regarding the Council President's April report.

26 **QUESTIONS OR COMMENTS FROM THE AUDIENCE**

27
28 June Krause invited the Council to the Senior Center on Wednesday, May 7, at 10:00 a.m., for
29 their "We've Still Got It" program, where Michele Campione would be interviewing the Mayor.
30 Ms Krause also thanked the Mayor, City Manager, and Councilors Dalton and Wilson for all the
31 work they've done for the Senior Center.

32
33 Glen Scatterday discussed his concerns with the proposed budget, adding many of the planned
34 spending items could be postponed. Mr. Scatterday stated that the Fire Department upgrade has
35 been proposed before and already failed once before the voters. He indicated this proposal is not
36 a public safety issue, noting even if the bond levy fails, Dallas still has the finest Fire Department
37 around. Mr. Scatterday stated there are more seniors that use the Dallas Aquatic Center and the
38 Dallas Public Library than use the Senior Center, and he does not support asking the taxpayers
39 for this bond measure.

40
41 Jim Thompson introduced himself to the Council and explained he is running for State
42 Representative.

43 **REPORTS OF SPECIAL COMMITTEES AND CITY OFFICERS**

44

45 NATIONAL POLICE WEEK, MAY 15 (PROCLAMATION)

46

47 Mayor Fairchild presented a Proclamation to Police Chief Jim Harper regarding National Police
48 Week.

49

50 GRACE BAPTIST CHURCH REQUEST TO DIG A WELL

51 Mr. Wyatt reviewed a request from Grace Baptist Church to dig a well for a Community Garden,

1 noting he would like this request to go through the Administrative Committee. Mr. Wyatt
2 explained Dallas already has a Community Garden and there are things that we need to consider
3 if we allow someone to drill a well, noting it would be a change of policy.

4
5 **DISCUSSION CONCERNING THE FIRE AND SENIOR CENTER BOND MEASURE**
6 **PROPOSAL**

7
8 Mr. Wyatt discussed the staff report, noting we have contacted other senior centers, and the costs
9 of utilities and maintenance vary considerably. Mr. Wyatt indicated we are working with PARC,
10 who is putting together a business plan for the seniors. Mr. Wyatt stated the next step is to set a
11 public hearing, and recommended June 2. In response to a question, Mr. Wyatt explained the
12 Senior Center Advisory Group met and is working on identification of the facility and they
13 would have a name decided on before the public hearing.

14
15 Mr. Wyatt recommended setting the public hearing for the Fire Bond at the same time as the
16 public hearing for the Senior Center. Mr. Wyatt stated the City's legal debt margin is \$28
17 million, and the City's current debt is \$5.5 million. Mr. Wyatt reviewed the options that were
18 presented by Fire Chief at the Council workshop, stating the recommendation is to go with
19 Option 2b, which excludes the debriefing shelters, physical training room, and training shed and
20 vent props, but does include a reserve engine and a fire display area. Councilor Scroggin
21 recommended if the City gets the land from Weyerhaeuser for the training facility that we test
22 the soil first since it borders a noxious dump.

23
24 Mayor noted there would be a public hearing on June 2 to discuss both bonds at 7:30 pm.

25
26 **UPDATE ON ODOT TRAFFIC SIGNAL PROJECT AT MAIN AND WASHINGTON**
27 **STREETS**

28
29 Mr. Wyatt discussed the ODOT traffic signal project at Main and Washington Streets, adding we
30 are working with them on getting decorative poles. Mr. Wyatt noted the City will make sure to
31 coordinate with ODOT and the Chamber for scheduling around Summerfest activities.

32
33 **DEPARTMENT REPORTS FOR THE MONTH OF MARCH**

34
35 City Manager Wyatt presented the department reports. There were no questions or comments.

36
37 **OTHER**

38 Mr. Wyatt indicated staff has begun the weed abatement program for the summer.

39
40 Mr. Wyatt noted the nuisance property on Mill Street has been issued a permit, the foundation
41 has been poured, and siding will be placed next week.

42
43 Councilor Dalton asked if the no parking in the 800 block of Main Street is being enforced. Mr.
44 Wyatt explained that they started by giving warnings, but are now giving tickets; however, the
45 current fine of \$5 is not much of a deterrent. Mr. Wyatt noted staff may bring to the Public
46 Safety Committee an increase in the fine to make it more of a deterrent.

47
48 **COMMUNICATIONS AND PETITIONS**

49
50 **LETTERS OF SUPPORT OF THE COMMUNITY ACTIVITIES PROGRAM**

51
52 Mr. Wyatt pointed out that we have received many letters of support for the Community
53 Activities program and they are available at his office if any Councilors would like to read them.

54
55 **PUBLIC HEARINGS**

56
57 **RESOLUTIONS**

58
59 **FIRST READING OF ORDINANCE**
60

1 **SECOND READING OF ORDINANCE**

2 **OTHER BUSINESS**

3 Mayor Fairchild noted there would be an executive session following the meeting to conduct
4 deliberations with persons designated by the governing body to carry on labor negotiations as
5 authorized in ORS 192.660(2)(d).

6 There being no further business, the meeting adjourned at 8:40 p.m.

7 Read and approved this _____ day of _____ 2008.

8
9

Mayor

11 ATTEST:

12 _____
13 City Manager

DRAFT

MEMO

To: City Council Members
From: Jerry Wyatt, City Manager
Date: May 9, 2008
Re: City Manager's Annual Evaluation – Evaluation Packet

Attached is a blank copy of the evaluation form the Council approved last May.

The City Manager's six-month evaluation should be returned by Tuesday, May 27 to City Hall. Please address them to the attention of Mayor Fairchild.

We have set the executive session to discuss the evaluation on June 2 after the regular Council meeting.

If you want to meet with me to go over any details of the evaluation, or if you have any questions or comments, please call me.

City of Dallas Performance Evaluation

City Manager

PURPOSE

The purpose of the employee performance evaluation and development report is to increase communication between the City council and the City Manager concerning the performance of the City Manager in the accomplishment of his/her assigned duties and responsibilities, and the establishment of specific work-related goals and objectives.

PROCESS

The City Council shall conduct an initial six-month review and an annual review and evaluation of the City Manager's work performance. The results of such evaluation shall commend areas of good performance and point out areas for improvement. It shall also be the basis for contract extension and compensation decisions.

1. If the criteria, standards and policy directives change, a public process is to be followed as outlined in ORS 192.660(1)(i), which provides for an opportunity for public comments on the proposed process.
2. Evaluation forms are distributed to all Council members by the second meeting in November.
3. Each Councilor completes the form, signs, dates and returns it to the Mayor by the first meeting in December.
4. The Mayor and Council President will summarize the results of the evaluation forms as submitted.
5. A summary will be distributed to the Council prior to the executive session evaluation meeting.
6. The Council meets with the City Manager in executive session to review the evaluation, unless the City Manager requests an open hearing.
7. After the executive session, the City Manager will be given copies of the composite evaluation and the individual Councilor's evaluations.

INSTRUCTIONS

Review the City Manager's work performance for the entire period; try to refrain from basing judgement on recent events or isolated incidents only. Disregard your general impression of the City Manager and concentrate on one factor at a time. Often policies and goals take several years to fully implement, so evaluation should consider effectiveness of planning and implementation, not whether full completion has occurred.

Evaluate the City Manager on the basis of standards you expect to be met for the job to which assigned considering the length of time in the job. Check the number that most accurately reflects the level of performance for the factor appraised using the rating scale described below. If you did not have an opportunity to observe a factor during this evaluation period, please indicate so in the "Not Observed" column next to the factor.

4. Fiscal Management

1 2 3 4 5 Not observed

Comments:

5. Communication

1 2 3 4 5 Not observed

Comments:

6. Personal Traits

1 2 3 4 5 Not observed

Comments:

7. Intergovernmental Affairs

1 2 3 4 5 Not observed

Comments:

CITY OF DALLAS

TO: Mayor Jim Fairchild and Council Members
FROM: Jerry Wyatt, City Manager
DATE: May 14, 2008
SUBJECT: City/School Workshop

I am requesting to hold a joint workshop with the School District to discuss community projects and priorities. The workshop must be scheduled prior to the June 2 Council meeting, so we are proposing Thursday, May 29 at 7:30 p.m. as the tentative meeting date. The School has proposed holding the workshop in the School Board Meeting Room at the District Office.

Please contact me if you have any questions or comments.

**City of Dallas Planning Commission
City Hall Council Chambers
187 SE Court St.**

May 13, 2008 - 7:30 p.m.

AGENDA

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF MINUTES - Regular meeting of April 8, 2008 and workshop of May 8, 2008.
4. PUBLIC COMMENT – This is an opportunity for citizens to speak to items not on the agenda (3 minutes per person please)
5. ANNOUNCEMENT OF PUBLIC HEARING GUIDELINES
(Copies available in the slots at the door.)
6. PUBLIC HEARINGS
 - A) A public hearing on the application of C. Richard Lewis, owner, to consider a Conditional Use to allow a duplex for property located at Lot 2 of Ellendale Estates at the corner of 472 SE Hankel Street/393 SE Schmidt Drive, Dallas, Oregon, in an RS, Residential Single Family, zone.

A motion was made, seconded, and carried to approve the request, subject to the two (2) conditions listed in the staff report.
 - B) A public hearing on the application of KAM Properties LLC, applicant, and Robert L. Praegitzer Rvc. Lvg. Trust, owner, to consider a Partition of two lots into three lots for property located at Tax Lots 7.5.33D1000, 7.5.33DC2500 and 8.5.4AA2000 (900 Block of Monmouth Cutoff), Dallas, Oregon, in an IH, Industrial Heavy, zone.

A motion was made, seconded, and carried to approve the request, subject to the six (6) conditions listed in the staff report.
7. OTHER BUSINESS
 - A) Discussion of Transportation System Plan (TSP) final draft proposed revisions.

CITY OF DALLAS
SUMMARY WARRANT REGISTER
04/17/08 12:17

PAGE 1

WARRANT	DEPARTMENT	REFERENCE	VENDOR NAME	AMOUNT
85267	VARIOUS	HEAT & LIGHTS	PACIFIC POWER	23,205.52
85268	WATER TREATMENT & PUMPING	TRAINING	LINN-BENTON COMM COLLEGE	515.00
85269	VARIOUS	HEAT	NORTHWEST NATURAL GAS	15,310.78
85270	LIBRARY	WORK STUDY	WESTERN OREGON UNIVERSITY	245.96
85271	NON-DEPARTMENTAL & CONTINGENCY	COPIES	POLK COUNTY CLERK	1.50
85272	FINANCE OFFICE	DUES	GOVERNMENT FINANCE	185.00
85273	COM DEV - AQUATIC CENTER	ADVERTISING	DEX WEST	38.00
85274	WATER MAINT & CUSTOMER SERVICE	TRAINING	AWWA NORTH AMERICA	56.50
85275	MUNICIPAL COURT	MUNI COURT REMODEL	DESIGN STUDIO INTER., INC	1,212.50
85276	FINANCE OFFICE	CONTRACTUAL	CIVICPLUS	475.00
85277	VARIOUS	OPERATION	ADT SECURITY SERVICES INC	3,836.13
85278	NON-DEPARTMENTAL & CONTINGENCY	MISC	SHETTERLY & IRICK	6.00
85279	VARIOUS	CONTRACTUAL	GARTEN SERVICES INC.	2,180.31
85280	SEWER CONSTRUCTION-NON-ASSESSD	CONTRACTUAL	THE FIFE GROUP INC.	23,240.78
85281	VARIOUS	COMMUNICATIONS	WVI	45.90
85282	MAYOR & CITY COUNCIL	COUNCIL WORKSHOP	CAPRICORN CATERING	164.25
85283	GENERAL FUND	RESTITUTION	SAFEWAY	3.75
85284	SEWER TREATMENT PLANT	CONTRACTUAL	CH2M HILL / OMI	43,984.24
85285	POLICE DEPARTMENT	POINT	POLK CO SHERIFF'S OFFICE	11,984.94
85286	FINANCE OFFICE	POSTAGE	PITNEY BOWES INC.	1,018.99
85287	NON-DEPARTMENTAL & CONTINGENCY	ODS DONATION	POLK SOIL & WATER	1,500.00
85288	POLICE DEPARTMENT	BOOT REIMBURSEMENT	COLBY HAMILTON	200.00
85289	MUNICIPAL COURT	PER DIEM	JULI LICHTENBERGER	40.00
85290	POLICE DEPARTMENT	INVESTIGATION	JACK M. HINKLE	150.00
85291	GENERAL FUND	RESTITUTION	DOUGLAS GARRETT	150.00
85292	TRUST FUND	BAIL REFUND	SETH A. GILLINS	388.00
85293	TRUST FUND	BAIL REFUND	JOYCE E. FRANK	27.00
85294	TRUST FUND	BAIL REFUND	HOLLY GUINNIP	27.00
85295	TRUST FUND	BAIL REFUND	MICHELE BENNETT	42.00
85296	TRUST FUND	BAIL REFUND	ANGELINE S. MCKIBBEN	42.00
85297	TRUST FUND	BAIL REFUND	RACHEL R. PELZER	42.00
85298	TRUST FUND	BAIL REFUND	CARLA M. COOK	42.00
85299	TRUST FUND	BAIL REFUND	MICHAEL D. BREEDEN	27.00
85300	TRUST FUND	BAIL REFUND	GLEN HAMM	237.00
85301	GENERAL FUND	REFUND	BRYCE DOHRMAN	32.00
85302	VARIOUS	TRAINING	ESTEBAN CAMPOS	406.00
85303	NON-DEPARTMENTAL & CONTINGENCY	RECOGNITION	TODD BRUMFIELD	100.00
85304	FACILITIES MAINTENANCE	REIMBURSEMENT	KEN STOLLER	52.50
		TOTAL		131,215.55

CITY OF DALLAS
SUMMARY WARRANT REGISTER
04/24/08 15:54

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WARRANT	DEPARTMENT	REFERENCE	VENDOR NAME	AMOUNT
85306	SHOP SERVICE FUND	STREET SWEEPER	OREGON STATE DMV	98.50
85307	MUNICIPAL COURT	DEF ATTORNEY	CHRIS L. LILLEGARD, P.C.	750.00
85308	NON-DEPARTMENTAL & CONTINGENCY	ARBORETUM	LIBERTY NORTHWEST	179.99
85309	MUNICIPAL COURT	ASSESSMENTS	OREGON DEPT OF REVENUE	4,278.00
85310	VARIOUS	RESERVIOIR	CH2M HILL INC.	29,913.92
85311	POLICE DEPARTMENT	911 DISPATCH	SPRINT	609.58
85312	MUNICIPAL COURT	ASSESSMENTS	POLK COUNTY TREASURER	1,948.00
85313	POLICE DEPARTMENT	MEMBERSHIP	OREGON ASSOCIATION	100.00
85314	NON-DEPARTMENTAL & CONTINGENCY	VETERAN'S PROJECT	CITY OF INDEPENDENCE	2,500.00
85315	FIRE DEPARTMENT	TURN OUTS	WATERSHED, INC.	9.99
85316	AMBULANCE DEPARTMENT	SUPPLIES	ZOLL MEDICAL CORP.	1,190.57
85317	MUNICIPAL COURT	ASSESSMENTS	OREGON JUDICIAL DEPT	423.00
85318	FINANCE OFFICE	WEBSITE	CIVICPLUS	475.00
85319	AMBULANCE DEPARTMENT	SUPPLIES	EMERGENT	8.09
85320	MUNICIPAL COURT	DEF ATTORNEY	DANEIL R. PRIMUS	150.00
85321	VARIOUS	VARIOUS	BANK OF AMERICA	4,151.45
85322	CAPITAL IMPROVEMENT FUND	MAIN ST. RESERVOIR	T BAILEY INC	344,251.76
85323	MUNICIPAL COURT	DEF ATTORNEY	CHRISTOPHER J. EGGERT	360.00
85324	TRUST FUND	BAIL REFUND	LAWRENCE J. MENDENHALL	60.00
85325	TRUST FUND	BAIL REFUND	SHAWNA M. DEDEK	27.00
85326	NON-DEPARTMENTAL & CONTINGENCY	REIMBURSEMENT	THOMAS MOORE	30.21
85327	POLICE DEPARTMENT	REIMBURSEMENT	JERRY MOTT	74.48
85328	LIBRARY	REIMBURSEMENT	ROSALYN MCGARVA	79.16
85329	FACILITIES MAINTENANCE	REIMBURSEMENT	KEN STOLLER	349.99
		TOTAL		392,018.69

CITY OF DALLAS
SUMMARY WARRANT REGISTER
04/29/08 12:40

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WARRANT	DEPARTMENT	REFERENCE	VENDOR NAME	AMOUNT
85331	VARIOUS	HEAT	NORTHWEST NATURAL GAS	17,802.33
85332	SEWER TREATMENT PLANT	CONTRACTUAL	CH2M HILL INC.	7,709.69
85333	VARIOUS	COMMUNICATIONS	BUSINESS CONNECTIONS, INC	102.95
85334	COM DEV INSPECTIONS	TRAINING	OBOA	1,565.00
85335	VARIOUS	COMMUNICATIONS	PAGE ONE N W	1,334.37
85336	VARIOUS	COMMUNICATIONS	INTEGRA TELECOM, INC.	2,969.89
85337	VARIOUS	OPERATION	COSTCAPTAIN.COM INC	507.00
85338	NON-DEPARTMENTAL & CONTINGENCY	WATER	CULLIGAN WATER CONDITION	21.50
85339	POLICE DEPARTMENT	911 DISPATCH	ANSWER CENTER AMERICA INC	771.04
85340	GENERAL LONG TERM DEBT FUND	PERS BONDS	WELLS FARGO CORP TRUST	39,134.29
85341	VARIOUS	LEGAL SERVICES	SHETTERLY & IRICK	9,056.25
85342	FIRE DEPARTMENT	VOLUNTEER SERVICES	DALLAS VOLUNTEER FIRE	2,279.17
85343	COM DEV - AQUATIC CENTER	CONCESSIONS	SCHWANS	518.35
85344	FIRE DEPARTMENT	TRAINING	SWOFIA	275.00
85345	IMPROVEMENT FUND	STREET LIGHTS	PACIFIC POWER & LIGHT	2,414.00
85346	TRUST FUND	REMAINING DEPOSIT	MILLIENIUM HOMES	24,425.57
85347	VARIOUS	SUPERVISING PHYSICIAN	JEFFREY HUMPHREY M.D.	500.00
85348	MAYOR & CITY COUNCIL	EXPENSE REIMBURSEMENT	JIM FAIRCHILD	125.00
85349	LIBRARY	GAS ALLOWANCE	NANCY WOOLSEY	42.00
		TOTAL		111,553.40

CITY OF DALLAS
SUMMARY WARRANT REGISTER
05/08/08 15:01

WARRANT	DEPARTMENT	REFERENCE	VENDOR NAME	AMOUNT
85351	POLICE DEPARTMENT	INVESTIGATION	LEAGUE OF OREGON CITIES	355.41
85352	VARIOUS	HEAT & LIGHTS	PACIFIC POWER	11,774.29
85353	SEWER MAINTENANCE	TRAINING	DEPT OF ENVIRONMTL QUALTY	200.00
85354	IMPROVEMENT FUND	FEMA STORM DAMAGE	APPLEGATE EXCAVATING	4,365.00
85355	POLICE DEPARTMENT	SUPPLIES	FRANKLIN COVEY	11.66
85356	VARIOUS	TRAINING	ROYAL FLUSH PORTABLES INC	84.00
85357	VARIOUS	TRAINING	ADVANCED SECURITY PRODUCT	25.99
85358	VARIOUS	COMMUNICATIONS	NEXTEL COMMUNICATIONS	1,507.56
85359	SHOP SERVICE FUND	EQUIPMENT	TITAN SALES GROUP	142,650.00
85360	VARIOUS	COMMUNICATIONS	QWEST	288.13
85361	VARIOUS	PETTY CASH	PETTY CASH, M BARAGARY,	351.98
85362	VARIOUS	CONTRACTUAL	SHETTERLY & IRICK	1,770.00
85363	FIRE DEPARTMENT	COMMUNICATIONS	VERIZON WIRELESS	14.14
85364	VARIOUS	CONTRACTUAL	GARTEN SERVICES INC.	1,613.75
85365	COM DEV PLANNING DEPT	MEMBERSHIP	NATIONAL TRUST FORUM	115.00
85366	VARIOUS	COMMUNICATIONS	WVI	45.90
85367	VARIOUS	TRAINING	INFOTRIEVE	26.48
85368	CAPITAL IMPROVEMENT FUND	MAIN ST. RESERVOIR	T BAILEY INC	193,900.00
85369	MUNICIPAL COURT	INVESTIGATOR	LANCE A. JOHNSON	1,497.26
85370	CITY MANAGER'S OFFICE	MILEAGE	JERRY WYATT	334.31
85371	PERSONNEL OFFICE	REIMBURSEMENT	KIM MARR	15.15
85372	POLICE DEPARTMENT	PER DIEM	ROD DUNHAM	220.00
85373	WATER TREATMENT & PUMPING	REIMBURSEMENT	RICK LOCKE	50.00
		TOTAL		361,216.01

CITY OF DALLAS
SUMMARY WARRANT REGISTER
04/30/08 16:06

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WARRANT	DEPARTMENT	REFERENCE	VENDOR NAME	AMOUNT
85375	VARIOUS	COMMUNICATIONS	DAY WIRELESS SYSTEMS	456.00
85376	VARIOUS	OPERATION	DALLAS AUTO PARTS	461.80
85377	VOIDED		DALLAS AUTO PARTS	.00
85378	VARIOUS	SUPPLIES	DALLAS TV - RADIO SHACK	58.95
85379	WATER TREATMENT & PUMPING	MAINTENANCE	FORBES PLUMBING	24.82
85380	WATER TREATMENT & PUMPING	MAINTENANCE	HACH CHEMICAL COMPANY	102.68
85381	COM DEV - AQUATIC CENTER	CHEMICALS	EMERALD OUTDOOR LIVING	297.84
85382	VARIOUS	SUPPLIES	INDUSTRIAL WELD SUPPLY	328.18
85383	VARIOUS	BOOKS	INGRAM	3,919.43
85384	VOIDED		INGRAM	.00
85385	VOIDED		INGRAM	.00
85386	VOIDED		INGRAM	.00
85387	VARIOUS	ADVERTISING	ITEMIZER-OBSERVER	1,052.65
85388	VARIOUS	PARTS	KINZIE MACHINE SHOP	111.70
85389	POLICE DEPARTMENT	OPERATION	LEE'S AUTO SERVICE	156.00
85390	VARIOUS	PARTS	LES SCHWAB	361.95
85391	SHOP SERVICE FUND	GAS & DIESEL	MARC NELSON OIL COMPANY	10,923.21
85392	VARIOUS	TRAINING	OREGON STATE DMV	26.00
85393	VARIOUS	CORRECTION	PACIFIC POWER	.00
85394	LIBRARY	CONTRACTUAL	CHEMEKETA COMM COLLEGE	1,358.63
85395	VARIOUS	MISC	DALLAS TROPHY	293.28
85396	POLICE DEPARTMENT	OPERATION	JOE HAYWARD FORD	310.90
85397	VARIOUS	OPERATION	AIR QUALITY ANALYSIS LAB	1,097.29
85398	STREET MARKING & LIGHTING	MATERIALS	TRAFFIC SAFETY SUPPLY	63.17
85399	SHOP SERVICE FUND	PARTS	PORTLAND COMPRESSOR CO	547.30
85400	SEWER MAINTENANCE	MATERIALS	UNITED PIPE & SUPPLY CO	3,023.00
85401	VARIOUS	MATERIALS	VALLEY CONCRETE	3,490.92
85402	VARIOUS	PARTS	VAN WELL BUILDING SUPPLY	1,300.98
85403	VOIDED		VAN WELL BUILDING SUPPLY	.00
85404	VOIDED		VAN WELL BUILDING SUPPLY	.00
85405	VOIDED		VAN WELL BUILDING SUPPLY	.00
85406	WATER TREATMENT & PUMPING	CONTRACTUAL	WATERLAB	510.00
85407	LIBRARY	BOOKS	RANDOM HOUSE, INC	44.00
85408	VARIOUS	MATERIALS	CEMEX	1,099.35
85409	WATER TREATMENT & PUMPING	SUPPLIES	UNIVAR USA INC.	2,305.00
85410	LIBRARY	BOOKS	BAKER & TAYLOR INC.	28.66
85411	VARIOUS	MAIN ST RESERVOIR	CH2M HILL INC.	18,206.14
85412	LIBRARY	BOOKS	GALE GROUP	166.96
85413	SHOP SERVICE FUND	MAINTENANCE	KLIEVER'S FLOOR COVERING	179.35
85414	WATER TREATMENT & PUMPING	MAINTENANCE	L & L EQUIPMENT, INC	16.50
85415	SHOP SERVICE FUND	PARTS	MCMULLIN CHEVROLET	236.17

CITY OF DALLAS
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WARRANT	DEPARTMENT	REFERENCE	VENDOR NAME	AMOUNT
85416	POLICE DEPARTMENT	SUPPLIES	PLATT	109.00
85417	VARIOUS	SUPPLIES	INDUSTRIAL SUPPLY COMPANY	473.50
85418	COMMUNITY DEV - PARKS	MATERIALS	MARR BROTHERS	970.00
85419	SHOP SERVICE FUND	PARTS	WESTERN POWER & EQUIPMENT	109.02
85420	POLICE DEPARTMENT	UNIFORMS	DALLAS CITY CLEANERS	383.00
85421	WATER TREATMENT & PUMPING	MAINTENANCE	FERGUSON ENTERPRISES INC	108.03
85422	LIBRARY	SUPPLIES	DEMCO	225.43
85423	VARIOUS	SUPPLIES	BEN MEADOWS COMPANY INC	219.50
85424	AMBULANCE DEPARTMENT	SUPPLIES	LIFE ASSIST	700.85
85425	FIRE DEPARTMENT	MAINTENANCE	OVERHEAD DOOR COMPANY	299.50
85426	SHOP SERVICE FUND	MAINTENANCE	CONSOLIDATED PLASTICS CO	344.79
85427	VARIOUS	SUPPLIES	OFFICE MAX	2,316.18
85428	VOIDED		OFFICE MAX	.00
85429	LIBRARY	OPERATION	OREGON COPIER SERVICE	23.90
85430	VARIOUS	SUPPLIES	ALLIED WASTE SERVICES	1,348.84
85431	FIRE DEPARTMENT	OPERATION	HUGHES FIRE EQUIPMENT	109.77
85432	VARIOUS	MAINTENANCE	GRAINGER	653.13
85433	COM DEV - AQUATIC CENTER	CONCESSIONS	PEPSI-COLA	933.40
85434	VARIOUS	MAINTENANCE	A-TEAM LOCKSMITHS, INC	13.00
85435	VARIOUS	UNIFORMS	DALLAS ALTERATION CENTER	28.50
85436	POLICE DEPARTMENT	SUPPLIES	OCE IMAGISTICS	38.24
85437	FIRE DEPARTMENT	TRAINING	OLD MILL FEED & GARDEN	89.50
85438	GRANTS FUND	TRUST MGT	LIBRARY VIDEO COMPANY	331.22
85439	WATER TREATMENT & PUMPING	MAINTENANCE	CASCADE AUTOMATION INC	1,900.00
85440	AMBULANCE DEPARTMENT	SUPPLIES	EMERGENCY MEDICAL PRODS	28.95
85441	VARIOUS	MAINTENANCE	TIPPS INC	241.36
85442	AMBULANCE DEPARTMENT	SUPPLIES	DERMATEC DIRECT	113.64
85443	SHOP SERVICE FUND	PARTS	UNITED RENTALS INC.	57.98
85444	WATER MAINT & CUSTOMER SERVICE	TOOLS	FLUID CONNECTOR PROD. INC	59.07
85445	POLICE DEPARTMENT	UNIFORMS	GALL'S INC.	199.74
85446	VARIOUS	PARTS	CARQUEST OF DALLAS	512.28
85447	VOIDED		CARQUEST OF DALLAS	.00
85448	FACILITIES MAINTENANCE	MAINTENANCE	NORTHWEST ELEVATOR	231.30
85449	FIRE DEPARTMENT	OPERATION	MCMASTER-CARR SUPPLY CO	57.98
85450	FINANCE OFFICE	SUPPLIES	AMERICAN EAGLE GRAPHICS	358.87
85451	AMBULANCE DEPARTMENT	SUPPLIES	THE MEDICINE SHOPPE	192.00
85452	VARIOUS	CONCESSIONS	WALMART COMMUNITY BRC	556.48
85453	POLICE DEPARTMENT	OPERATION	AUTO ADDITIONS	243.00
85454	POLICE DEPARTMENT	INVESTIGATION	LYNN PEAVEY COMPANY	84.50
85455	VARIOUS	CHEMICALS	AIRGAS NOR PAC INC.	669.32
85456	AMBULANCE DEPARTMENT	SUPPLIES	EAST WEST ASSOCIATES	350.00

CITY OF DALLAS
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WARRANT	DEPARTMENT	REFERENCE	VENDOR NAME	AMOUNT
85457	VARIOUS	SUPPLIES	DARYLL'S NURSERY	1,135.50
85458	COM DEV - AQUATIC CENTER	TRAINING	BIO-MED TESTING SVC, INC	86.00
85459	LIBRARY	BOOKS	THOMAS BOUREGY & COMPANY	138.50
85460	COM DEV - AQUATIC CENTER	MAINTENANCE	LINCOLN EQUIPMENT INC.	481.95
85461	VARIOUS	MAINTENANCE	HOME DEPOT	189.89
85462	COM DEV - AQUATIC CENTER	CONCESSIONS	FRED LEA DISTRIBUTING INC	372.00
85463	VARIOUS	SUPPLIES	COASTWIDE LABORATORIES	905.11
85464	COMMUNITY DEV - PARKS	CONTRACTUAL	ROYAL FLUSH PORTABLES INC	77.50
85465	AMBULANCE DEPARTMENT	SUPPLIES	BAXTER HEALTHCARE CORP	299.00
85466	LIBRARY	BOOKS	CENTER POINT PUBLISHING	188.70
85467	COM DEV - AQUATIC CENTER	PROSHOP	TYR SPORT INC.	221.23
85468	LIBRARY	SUPPLIES	SHOWCASES	180.76
85469	POLICE DEPARTMENT	OPERATION	DALLAS FUEL & FOOD MART	20.00
85470	WATER TREATMENT & PUMPING	SUPPLIES	SUMMIT RESEARCH LAB	6,448.66
85471	AMBULANCE DEPARTMENT	SUPPLIES	PMI	661.68
85472	SHOP SERVICE FUND	PARTS	ENVIRO-CLEAN EQUIPMENT	2,326.56
85473	VARIOUS	COMMUNICATIONS	RELIANCE CONNECTS	631.45
85474	POLICE DEPARTMENT	SUPPLIES	DE LAGE LANDEN	140.00
85475	VARIOUS	MAINTENANCE	RAY'S HOME & GARDEN	457.76
85476	VOIDED		RAY'S HOME & GARDEN	.00
85477	WATER TREATMENT & PUMPING	MAINTENANCE	F & W FENCE	1,242.50
85478	POLICE DEPARTMENT	UNIFORMS	RIVERSIDE MANUFACTURING	294.86
85479	SHOP SERVICE FUND	PARTS	MC COY FREIGHTLINER	330.44
85480	COM DEV - AQUATIC CENTER	ADVERTISING	BIG SCREEN ADVERTISING	295.00
85481	VARIOUS	CORRECTION	NATIONAL CITY HEALTHCARE	5,705.55
85482	SYSTEMS DEVELOPMENT FUND	LEVENS ST. BRIDGE	EWING IRRIGATION	265.63
85483	POLICE DEPARTMENT	INVESTIGATION	COVANTA MARION INC	30.00
85484	VARIOUS	BOOKS	RAINBOW BOOK CO	713.64
85485	WATER TREATMENT & PUMPING	CONTRACTUAL	LAB/COR, INC.	750.00
85486	VARIOUS	MAINTENANCE	POSTAL CONNECTIONS	45.31
85487	COM DEV - AQUATIC CENTER	MAINTENANCE	SPORTIME	133.92
85488	COM DEV - AQUATIC CENTER	TRAINING	STAYWELL COMPANY	26.27
85489	WATER TREATMENT & PUMPING	MAINTENANCE	RYAN HERCO PRODUCTS	148.31
85490	COM DEV - AQUATIC CENTER	CHEMICALS	KNORR SYSTEMS, INC	3,736.00
85491	COM DEV - AQUATIC CENTER	CONCESSIONS	CASH & CARRY	454.17
85492	VARIOUS	CONTRACTUAL	SECURITY ALARM CORP	138.50
		TOTAL		97,515.93

CITY OF DALLAS
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WARRANT	DEPARTMENT	REFERENCE	VENDOR NAME	AMOUNT
3919	POLICE DEPARTMENT	PER DIEM	DONALD VIDRIO	140.00
3920	POLICE DEPARTMENT	PER DIEM	JERRY MOTT	140.00
984950	AMBULANCE DEPARTMENT	VOID CK #84950	EMERGENT	158.09-
985268	WATER TREATMENT & PUMPING	VOID CK 85268	LINN-BENTON COMM COLLEGE	515.00-
999996	VARIOUS	PAYROLL & TAXES	PAYROLL CHECKS	600,503.92
		TOTAL		600,110.83

CITY OF DALLAS

TO: Mayor Jim Fairchild and Council Members
FROM: Jerry Wyatt, City Manager
DATE: May 14, 2008
SUBJECT: Request for increase in garbage and collection rates

The City has received a request from Allied Waste Services for an increase in garbage and collection rates in the City of Dallas. Chuck Lerwick will be at the meeting Monday night to answer any questions you may have.

Please contact me if you have any questions or comments.



April 28, 2008

City of Dallas
187 S.E. Court St.
Dallas, OR 97338

Dear Mr. Jerry Wyatt, Mayor Jim Fairchild and Members of the Council:

Enclosed is a request for an increase in garbage and collection rates in the City of Dallas. Pending approval, we are requesting an effective date of June 1, 2008

The new rates represent an overall increase of 7.6%. Under this proposal residential rates would increase 12.6%, commercial rates an average of 4% and industrial rates an average of 3.9%.

This request is the result of several factors:

- We are proposing the implementation of two new automated collection services. Co-mingle cart collection to replace the current bin collection system and curbside yard debris recycling in July 2008. We believe this system will improve recovery rates in our areas, as well as improve our recycling services to customers. Attached is a brief overview and benefits of this program.
- The disposal rate at the landfill increased 6.9% on July 1 of last year.
- An average 3% COLA increase for most expenses, except as noted in the financial statements.

Included in the attached information is the following:

- Financial statements showing actual 2007 results, and proforma results for 2008 and 2009, assuming the rate increase is approved and effective on June 1, 2008
- Tables showing current and proposed rates for the services offered in Dallas.
- A table comparing a sample of AW of Dallas' current and proposed rates with those in other Cities of Oregon.

I appreciate the opportunity to present this new program and to propose this rate change. I look forward to your comments and questions.

Best Regards,

A handwritten signature in black ink that reads 'Chuck Lerwick'.

Chuck Lerwick
Operations Manager
Allied Waste of Dallas





Automated Curbside Co-Mingle and Yard Debris Recycling Collection Implementation Date 7/2008

Overview:

Dallas has enjoyed the benefits of automated garbage collection for over ten years. The automation of curbside co-mingle recycling and the addition of yard debris collection is a logical step in our quest for improving our recovery rates, and providing an easier, cleaner and more efficient system of collection. With our every other week collection of co-mingle and yard debris schedule we will only have two carts at the curb per week. Week one will be co-mingle and trash and week two will be yard debris and trash.

- We anticipate cart delivery for both new services in July
- Each recycling customer will be provided one 64-gallon cart to replace the multiple recycling bins they are currently using.
- Each customer currently on regular trash service will receive a 90-gallon yard debris cart. We will also provide yard debris carts to non-trash customers for \$7.00 per month.
- All co-mingle recycling material will be placed into the cart. We anticipate that glass will also be put into the cart in the future– we are continuing negotiations with our market to include glass in the mix.
- Until there is an agreement with the markets all glass will be accepted at our depot located at 1030 W. Ellendale Ave. Glass will not be picked up curbside separately.
- Carts will be rolled out to the curb for collection. (Services will be bi-weekly for the co-mingle and yard debris) a schedule will be mailed and delivered with the carts.

Equipment Needed:

- One Automated truck
- 4,500 64 gallon co-mingle carts and 4,000 90 gallon yard debris carts.



Allied Waste of Dallas
Dallas
Proforma Statement of Income
For the twelve months ended December 31, 2007, 2008, and 2009

	2007	2008 Projected	2009 Projected	Annualized % Increase
Revenue	1,811,051	1,891,458	1,948,892	3.8%
Cost of Operations	1,249,287	1,333,886	1,389,904	5.6%
Gross Profit	561,764	557,573	558,989	-0.2%
Salaries, General and Administrative	211,622	216,824	222,122	2.5%
Operating Income	350,142	340,749	336,867	-1.9%
Provision for Income Taxes	140,057	136,300	134,747	-1.9%
Net Income	210,085	204,449	202,120	-1.9%
Net Income as a Percent of Sales	11.60%	10.81%	10.37%	

Rate Increase Summary:

Commercial = 4.0%
Industrial = 3.9%
Residential = 12.6%
Overall = 7.6%

Allied Waste of Dallas
Dallas
Proforma Schedule of Direct Expenses
For the twelve months ended December 31, 2007, 2008, and 2009

	2007	2008 Projected	2009 Projected	Annualized % Increase
COST OF OPERATIONS				
Labor	377,913	390,679	403,881	3.4%
Repairs and Maintenance	113,180	116,477	119,871	3.0%
¹ Vehicle Operating Costs	124,630	142,171	148,268	9.5%
Equipment Rent	1,410	1,446	1,484	2.6%
Facility Operating	59,367	33,724	34,601	-20.9%
Safety, Insurance and Claims	41,051	42,118	43,213	2.6%
² Disposal	402,703	423,435	450,589	5.9%
Recycling Purchases	-	-	-	0.0%
Franchise Fees	69,785	72,855	74,578	3.4%
Other Operating Costs	7,106	7,291	7,481	2.6%
³ Depreciation	52,143	103,689	105,938	51.6%
TOTAL COST OF OPERATIONS	1,249,287	1,333,886	1,389,904	5.6%
SALARIES, GENERAL & ADMINISTRATIVE				
Salaries	73,793	76,295	78,883	3.4%
Rent and Office Expense	14,163	14,552	14,952	2.8%
Travel and Entertainment	7,033	7,216	7,403	2.6%
Professional Fees	1,756	1,802	1,849	2.6%
Bad Debt Expense	7,451	7,782	8,018	3.8%
Management Services	71,377	72,258	73,152	1.2%
Other Expenses	35,503	36,374	37,319	2.6%
Depreciation	545	545	545	0.0%
TOTAL SALARIES, GENERAL & ADMINISTRATIVE	211,622	216,824	222,122	2.5%

Explanation of Significant Inflationary Costs:

- Fuel Prices** averaged \$2.96 per gallon in 2007, reaching a high of \$3.64 in November. We are projecting fuel rates to average \$3.42 and \$3.57 in 2008 and 2009 respectively.
- Effective January 1, 2007, **disposal rates** at Coffin Butte will be \$30.50. The rates will change to \$31.75 on January 1, 2008. The Environment Recovery Fee is increasing from \$5.00 to \$7.50 per load on March 1, 2008. No change in this fee is expected in 2009.
- Depreciation Expense** on operating equipment is expected to grow in 2008 due to the capital investment related to the co-mingle and yard debris programs. We will be purchasing an additional automated side load vehicle and 8,000 carts.

SPECIAL CHARGES

Average Load

Current 18.70 **Proposed 19.50**

Large chair or recliner
Dishwasher
Dryer
Kitchen table
Push lawn mower
Twin or double mattress
Rototiller
Waterheater
Current(\$13)

Medium Load

Current 21.50 **Proposed 22.50**

Console TV
Loveseat
Queen/King Mattress
55 Gal drum
(\$16)

Large Load

Current 24.00 **Proposed 25.00**

Couch
Washer
Stove/Range
(\$19)

Extra Large Load

Current 28.80 **Proposed 30.00**

Bathtub
Freezer
Hide-a-bed
Fridge
Riding Mower
(\$23.80)

Italic Appliances can be taken at Dallas Office during business hours for prices in parentheses.

Tires, car, off rim (each)	4.50
On rim	9.00
Tires, truck, off rim (each)	17.00
On rim	22.00

Other items or piles:	Current	Proposed
Per cubic yard of material	17.50	18.00

Plus per minute for one person to load (based on \$85 per hr)	1.40	1.50
Plus per minute for second person if required60	.65

Yard Waste Only Service **\$7.00/mo**

NON-PAYMENT

If service is interrupted/discontinued for non-payment of account, user will be charged a fee of \$30.00 to restart the service.

BAD CHECKS

Each time a check in payment of service is returned, a charge of \$17.00 will be added to user's account. **(Proposed \$20.00)**

SECURITY BOXES

	Current	Proposed
Inside City Limits		
Delivery fee.....	\$35.00	\$37.00
Removal	\$35.00	\$37.00
Rent/mo.....	\$119.00	\$123.00
Outside City Limits		
Delivery fee.....	\$65.00	\$67.50
Removal	\$65.00	\$67.50
Rent/mo.....	\$119.00	\$123.00

COMPOST DELIVERIES

Compost – 10yd load delivered inside city	\$140.00	\$145.00
Compost – 10yd load outside city	\$170.00	\$175.00

Allied Waste of Dallas

Proposed Commercial Manual Container Rates for Dallas

Size	Approx # of cans	Current 1/week	Proposed 1/Week	Current 2/week	Proposed 2/Week	Proposed 3/Week	Proposed 3/Week	Current 4/week	Proposed 4/Week	Current 5/week	Proposed 5/Week
1 yd	6	\$ 73.45	\$ 76.50	\$ 134.00	\$ 139.50	\$ 196.25	\$ 204.00	\$ 257.65	\$ 268.00	\$ 380.50	\$ 332.00
1.5 yd	9	\$ 91.25	\$ 95.00	\$ 172.00	\$ 178.90	\$ 252.50	\$ 262.50	\$ 333.25	\$ 346.50	\$ 413.85	\$ 430.40
2 yd	12	\$ 111.00	\$ 115.50	\$ 211.00	\$ 219.50	\$ 310.75	\$ 323.25	\$ 410.60	\$ 427.00	\$ 510.60	\$ 531.00

Locking Containers

One time setup fee of \$40 applies to all locking containers

Off route service fee

Current -\$15.00 service fee will be applied to all requests not on scheduled routes Proposed \$17.50

Proposed Monthly Residential Service Rates for Dallas

	Current	Proposed
1 Can	\$ 12.70	\$ 14.25
Each add can	\$ 13.00	\$ 14.00
35 gal cart	\$ 11.35	\$ 12.75
90 gal cart	\$ 18.85	\$ 21.25
2 can special	\$ 5.75	\$ 6.50
Up-drive fee	\$ 15.00	\$ 15.00

Additional 35 gallon carts are \$12.75 per month
 Additional 90 gallon carts are \$21.25 per month

Temporary Containers

2 cubic yards

Current \$44.00 (includes delivery, pickup, and seven days use)¹ Proposed \$59.00

Current \$36.80 per additional dump Proposed \$53.00

Proposed Industrial Drop Box Rates for Dallas

Size	Current Haul Fee	Proposed Haul Fee	Current Delivery Fee	Proposed Delivery Fee	Current Daily Rent	Proposed Daily Rent	Current Monthly Rent	Proposed Monthly Rent
10	\$ 154.00	\$ 160.00	\$ 33.00	\$ 35.00	\$ 11.00	\$ 12.00	\$ 87.00	\$ 89.00
20	\$ 154.00	\$ 160.00	\$ 33.00	\$ 35.00	\$ 11.00	\$ 12.00	\$ 87.00	\$ 89.00
30	\$ 154.00	\$ 160.00	\$ 33.00	\$ 35.00	\$ 11.00	\$ 12.00	\$ 87.00	\$ 89.00
40	\$ 165.00	\$ 171.50	\$ 33.00	\$ 35.00	\$ 11.00	\$ 12.00	\$ 87.00	\$ 89.00

	Current Hourly	Proposed Hourly
Labor Charges	\$ 85.00	\$87.50

Rate Comparisons	Proposed Dallas	Tangent	Adair	Corvallis & Philomath	Monroe	Junction City	Ashland	Medford	Oregon City
Hauler Name	AW of Dallas	AW of Corvallis	AW of Corvallis	AW of Corvallis	AW of Corvallis		Ashland Sanitary	Ashland Sanitary	Oregon City Garbage Co.
Service Type									
32 gallon can service	14.25	20.75	20.30	20.30	20.85	1-can 16.86	1-can 15.42	1-can 14.19	20.00
35 gallon cart	12.75	15.05	14.50	14.50	14.65	2-cans 24.48	2-cans 30.85	2-cans 23.78	21.25
90 gallon cart	21.25	25.30	25.25	25.25	24.30	4-cans 39.72	n/a	n/a	31.00
2 yd rear load container 1x/week	115.50	152.70	139.50	139.50	137.50	154.39	n/a	n/a	
30 yd drop box	160.00	190.00	157.00	157.00	178.00	N/A	264.37	359.47	338.80

CITY OF DALLAS

TO: Mayor Jim Fairchild and Council Members
FROM: Jerry Wyatt, City Manager
DATE: May 14, 2008
SUBJECT: OLCC Liquor License Application for a New Outlet

The City received an OLCC application for a new Dusty Spur Pizza Company outlet at 628 SE Jefferson Street.

The Police Chief has reviewed the application and has no items of concern. I recommend endorsement of this application.

Please contact me if you have any questions or comments.



OREGON LIQUOR CONTROL COMMISSION
LIQUOR LICENSE APPLICATION

RECEIVED MAY 6 2008

PLEASE PRINT OR TYPE

Application is being made for:

LICENSE TYPES

- Full On-Premises Sales (\$402.60/yr)
Commercial Establishment
Caterer
Passenger Carrier
Other Public Location
Private Club
Limited On-Premises Sales (\$202.60/yr)
Off-Premises Sales (\$100/yr)
Brewery Public House (\$252.60)
Winery (\$250/yr)
Other:

ACTIONS

- Change Ownership
New Outlet
Greater Privilege
Additional Privilege
Other

Applying as:

- Limited Partnership
Corporation
Limited Liability Company
Individuals

FOR CITY AND COUNTY USE ONLY
The city council or county commission:

(name of city or county)

recommends that this license be:

Granted Denied

By: (signature) (date)

Name:

Title:

OLCC USE ONLY

Application Rec'd by: OLCC 5/1/08

Date: [Signature]

90-day authority: Yes No

1. Entity or Individuals applying for the license: [See SECTION 1 of the Guide]

1 Kevin Crutsinger

2 Kim Crutsinger

2. Trade Name (dba): DUSTY SPUR PIZZA CO.

3. Business Location: 628 JEFFERSON DALLAS DALLAS OR 97338

4. Business Mailing Address: 628 JEFFERSON DALLAS OR 97338

5. Business Numbers: (phone) (fax)

6. Is the business at this location currently licensed by OLCC? Yes No

7. If yes to whom: Type of License:

8. Former Business Name:

9. Will you have a manager? Yes No Name: (manager must fill out an individual history form)

10. What is the local governing body where your business is located? DALLAS, OR

11. Contact person for this application: KEVIN CRUTSINGER (name) (phone number(s)) (address) (fax number) (e-mail address)

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

1 Kevin Crutsinger Date 4-29-08

2 Kimberly Crutsinger Date 4-29-08

RECEIVED OREGON LIQUOR CONTROL COMMISSION

MAY 01 2008

1-800-452-OLCC (6522) www.oregon.gov/olcc

SALEM REGIONAL OFFICE



OREGON LIQUOR CONTROL COMMISSION INDIVIDUAL HISTORY

PLEASE PRINT OR TYPE

YOU MUST ANSWER ALL QUESTIONS ON THIS FORM. IF THE QUESTION DOES NOT APPLY, WRITE N/A IN THE SPACE. ATTACH ADDITIONAL SHEETS IF NECESSARY.

Trade Name (d.b.a.): Dusty Spur Pizza Co. City: Dallas

1. Name: Crutsinger Kimberly Ann
(last) (first) (middle)

2. Other names used (maiden, other): _____

3. Residence Address: _____
(number and street) (city) (state) (ZIP code)

4. Home Phone: (_____) Business Phone: (_____) _____

5. *SSN: _____ Place of Birth: _____ DOB: _____ Sex: M ___ F
(State/Country) (mm) (dd) (yyyy)

6. Driver License or State ID #: _____ State: _____ Spouse's name: Kevin Crutsinger

7. List all states, other than Oregon, where you have lived during the past ten years:

8. Do you currently hold, or have you ever held a liquor license in this or any other state? Yes ___ No
If yes, when, where and name of premises? Current, Dusty Spur, Independence

9. In the past twelve years, have you been convicted of any violation, misdemeanor or felony? ___ Yes No
If yes, what, when and where? Dusty Spur, Independence, TX

10. Have you ever entered into a diversion agreement? ___ Yes No
If yes, when and where? _____

11. Do you have any arrests or citations that have not been resolved? ___ Yes No
If yes, arrested/cited for: _____ Date _____ County/City/State/ _____

12. If you are applying for a retail liquor license:
a. Do you have any financial interest, direct or indirect, in any manufacturer or distributor of alcohol? ___ Yes No If yes, what and where: _____
b. Does any person having a financial or ownership interest in a manufacturer or distributor have an interest in, or potential claim upon your business or premises, for instance through investment, a loan, lease or contract? ___ Yes No If yes, who? _____

13. Have you ever had a warning, violation, suspension, fine, cancellation or refusal as a licensee or service permittee, in Oregon or any other state? ___ Yes No If yes, when: _____ where: _____

I UNDERSTAND THE OLCC WILL USE THE ABOVE INFORMATION TO CHECK FOR CRIMINAL RECORDS. I UNDERSTAND IF MY ANSWERS ARE NOT TRUE AND COMPLETE, THE OLCC MAY DENY MY LICENSE APPLICATION.

Applicant Signature: Kimberly A Crutsinger Date: 4/29/08

***SOCIAL SECURITY NUMBER DISCLOSURE** As part of your application for an initial or renewal license, Federal and State laws require you to provide your Social Security Number (SSN) to the Oregon Liquor Control Commission (OLCC) for child support enforcement purposes (42 USC § 666(a)(13) & ORS 25.785). The OLCC will refuse a license to any applicant or licensee who fails to provide his/her SSN. Your SSN will be used only for child support enforcement purposes unless you sign below.

Based on our authority under ORS 471.311 and OAR 845-005-0312(6), we are requesting your voluntary consent to use your SSN for the following administrative purposes only: to match your license application to your Alcohol Server Education records (where applicable), and to ensure your identity for criminal records checks. OLCC will not deny you any rights, benefits or privileges otherwise provided by law if you do not consent to use of your SSN for these administrative purposes (5 USC § 552(a)). If you consent to these uses, please sign here:

Applicant Signature: Kimberly A Crutsinger Date: 4/29/08



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1-800-452-OLCC (6522)
www.oregon.gov/olcc

(rev. 12/07)



OREGON LIQUOR CONTROL COMMISSION INDIVIDUAL HISTORY

PLEASE PRINT OR TYPE

YOU MUST ANSWER ALL QUESTIONS ON THIS FORM. IF THE QUESTION DOES NOT APPLY, WRITE N/A IN THE SPACE. ATTACH ADDITIONAL SHEETS IF NECESSARY.

Trade Name (d.b.a.): Dusty Spore Pizza Co City: Independence/Dallas

1. Name: Crutsinger Kevin S.
(last) (first) (middle)

2. Other names used (maiden, other): _____

3. Residence Address: _____
(number and street) (city) (state) (ZIP code)

4. Home Phone: (_____) Business Phone: (_____) _____

5. *SSN: _____ Place of Birth: _____ OB: _____ :x: M D F
(State/Country) (mm) (dd) (yyyy)

6. Driver License or State ID #: _____ State: _____ Spouse's name: Kimberly Crutsinger

7. List all states, other than Oregon, where you have lived during the past ten years:

8. Do you currently hold, or have you ever held a liquor license in this or any other state? Yes No
If yes, when, where and name of premises? Currently, Independence, OR, Dusty Spore Pizza

9. In the past twelve years, have you been convicted of **any** violation, misdemeanor or felony? Yes No
If yes, what, when and where? _____

10. Have you ever entered into a diversion agreement? Yes No
If yes, when and where? _____

11. Do you have any arrests or citations that have not been resolved? Yes No
If yes, arrested/cited for: _____ Date _____ County/City/State/ _____

12. If you are applying for a retail liquor license:
a. Do you have any financial interest, direct or indirect, in any manufacturer or distributor of alcohol? Yes No If yes, what and where: _____
b. Does any person having a financial or ownership interest in a manufacturer or distributor have an interest in, or potential claim upon your business or premises, for instance through investment, a loan, lease or contract? Yes No If yes, who? _____

13. Have you ever had a warning, violation, suspension, fine, cancellation or refusal as a licensee or service permittee, in Oregon or any other state? Yes No If yes, when: _____ where: _____

I UNDERSTAND THE OLCC WILL USE THE ABOVE INFORMATION TO CHECK FOR CRIMINAL RECORDS. I UNDERSTAND IF MY ANSWERS ARE NOT TRUE AND COMPLETE, THE OLCC MAY DENY MY LICENSE APPLICATION.

Applicant Signature: Kevin Crutsinger Date: 4/30/08

***SOCIAL SECURITY NUMBER DISCLOSURE** As part of your application for an initial or renewal license, Federal and State laws require you to provide your Social Security Number (SSN) to the Oregon Liquor Control Commission (OLCC) for child support enforcement purposes (42 USC § 666(a)(13) & ORS 25.785). The OLCC will refuse a license to any applicant or licensee who fails to provide his/her SSN. Your SSN will be used only for child support enforcement purposes unless you sign below.

Based on our authority under ORS 471.311 and OAR 845-005-0312(6), we are requesting your voluntary consent to use your SSN for the following administrative purposes only: to match your license application to your Alcohol Server Education records (where applicable), and to ensure your identity for criminal records checks. OLCC will not deny you any rights, benefits or privileges otherwise provided by law if you do not consent to use of your SSN for these administrative purposes (5 USC § 552(a)). If you consent to these uses, please sign here:

Applicant Signature: Kevin Crutsinger Date: 4/30/08



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1-800-452-OLCC (6522)
www.oregon.gov/olcc

(rev. 12/07)



OREGON LIQUOR CONTROL COMMISSION
BUSINESS INFORMATION

Please Print or Type

Applicant Name: Kevin Crutsinger Phone: _____
Trade Name (dba): Dusty Spur Pizza Co
Business Location Address: 628 Jefferson
City: Dallas, OR ZIP Code: 97338

DAYS AND HOURS OF OPERATION

Business Hours:

Sunday 12 to 9
Monday 10 to 10
Tuesday 11 to 10
Wednesday 11 to 10
Thursday 11 to 10
Friday 11 to 11
Saturday 11 to 11

Outdoor Area Hours:

Sunday _____ to _____
Monday _____ to _____
Tuesday _____ to _____
Wednesday _____ to _____
Thursday _____ to _____
Friday _____ to _____
Saturday _____ to _____

The outdoor area is used for:

- Food service Hours: _____ to _____
- Alcohol service Hours: _____ to _____
- Enclosed, how _____

The exterior area is adequately viewed and/or supervised by Service Permittees.

(Investigator's Initials)

Seasonal Variations: Yes No If yes, explain: We close 1 hour earlier during
The winter hours

ENTERTAINMENT

Check all that apply:

- Live Music
- Recorded Music
- DJ Music
- Dancing
- Nude Entertainers
- Karaoke
- Coin-operated Games
- Video Lottery Machines
- Social Gaming
- Pool Tables
- Other: _____

DAYS & HOURS OF LIVE OR DJ MUSIC

Sunday _____ to _____
Monday _____ to _____
Tuesday _____ to _____
Wednesday _____ to _____
Thursday _____ to _____
Friday _____ to _____
Saturday _____ to _____

SEATING COUNT

Restaurant: 50 Outdoor: _____
Lounge: _____ Other (explain): _____
Banquet: _____ Total Seating: 50

OLCC USE ONLY

Investigator Verified Seating: ___(Y)___(N)
Investigator Initials: _____
Date: _____

I understand if my answers are not true and complete, the OLCC may deny my license application.

Applicant Signature: Kevin Crutsinger Date: 5/1/08

1-800-452-OLCC (6522)

www.oregon.gov/olcc

CITY OF DALLAS

TO: Mayor Jim Fairchild and Council Members
FROM: Jerry Wyatt, City Manager
DATE: May 14, 2008
SUBJECT: Polk County Use of Force Plan

Enclosed in the packet is Polk County's *Use of Deadly Physical Force Response Plan*. This plan was formed by the requirements of SB 111, which also requires that each local government agency in Polk County approve or disapprove of the local Deadly Force Plan. This plan provides for requirements that after an officer involved shooting, there are certain protocols that must be followed to ensure an agency investigation is done and the involved officer(s) are mandated to attend at least one mental health consulting session.

I recommend the Council approve the plan. Please contact me if you have any questions or concerns.



POLK COUNTY

850 MAIN STREET * DALLAS, OREGON 97338-3185 * 503-623-9251 / FAX 503-623-2060

SHERIFF'S OFFICE

Sheriff Bob Wolfe

Criminal Division
Civil Division
Marine Patrol Division
Dog Control
Emergency Management

May 1, 2008

Mr. Jerry Wyatt
Dallas City Manager
187 SE Court Street
Dallas, OR 97338

Re: Polk County Use of Deadly Physical Force Response Plan

Dear Mr. Wyatt,

Pursuant to the passage of Senate Bill 111 by the Oregon Legislature, each local government agency in Polk County is required to approve or disapprove of the local Deadly Force Plan. This plan has been developed by the Planning Authority, which was established pursuant to the requirements of SB 111.

On April 17, 2008, a public hearing was held at the Polk County Courthouse to seek public input on the Polk County Use of Deadly Physical Force Response Plan. The only comment received was from one of the two people in attendance, who spoke in favor of the plan.

Having held the public hearing and having no negative comments, or any additional changes to the Polk County Use of Deadly Physical Force Response Plan, we are now forwarding the plan to your City Council for review and approval. We are requesting this matter appear before your City Council as soon as possible.

Upon approval, we will provide you with a signature page and the document will then be forwarded to the Oregon Attorney General's Office for their review and approval. Upon the final review by the Attorney General's Office, the plan will then be put into effect.

The requirements of SB 111 require the Polk County Use of Deadly Physical Force Response Plan, Planning Authority to review the plan annually and will be used by all law enforcement agencies in Polk County who would become involved in any deadly physical force incident.

We have attached a "copy" of the Polk County Use of Deadly Physical Force Response Plan, including the requirements of SB 111. As indicated, each governing body within Polk County must acknowledge they "approve/disapprove" of the attached plan. Your attention to this request is very important and under a time requirement of being completed by July 2008.

If you have any questions, please contact Sheriff Bob Wolfe as soon as possible. If you could inform me of the date and time of the council meeting in which this document will be reviewed, a member of the Planning Authority will be in attendance to answer any questions.

Respectfully,



Sheriff Bob Wolfe
Co-Chair, SB 111 Planning Authority of Polk County



John Fisher, Polk County District Attorney
Co-Chair, SB 111 Planning Authority of Polk County

PROPOSED

**LAW ENFORCEMENT
USE OF
DEADLY PHYSICAL
FORCE RESPONSE
PLAN**

Polk County
Use of Deadly Physical Force
Planning Authority

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Members of the Planning Authority

John Fisher, Polk County District Attorney (co-chair)
Bob Wolfe, Polk County Sheriff (co-chair)
Lt. Mike Peterson, Oregon State Police
Chief Jerry Moore, Salem Police Department
Officer Jeff Huey, Labor Union Representative
Nancy Adams, Public Member

On April 22, 2008, this Plan was approved by a majority vote of the Planning Authority, and submitted for approval to governing bodies of the following jurisdictions:

Polk County-----	Approved/Disapproved (date)
City of Independence-----	Approved/Disapproved (date)
City of Monmouth-----	Approved/Disapproved (date)
City of Dallas-----	Approved/Disapproved (date)
City of Falls City-----	Approved/Disapproved (date)
City of Salem-----	Approved/Disapproved (date)

Upon receiving a vote of approval from 2/3 of the above jurisdictions, this Plan was submitted to the Attorney General, who approved the Plan on ***.

Preamble

Polk County Law Enforcement recognizes the importance to both their agencies and our communities to ensure any use of deadly force is investigated in a professional, competent and impartial manner. The openness with which we proceed in these investigations is critical to establishing and maintaining trust within the community. It is clear our citizens examine closely the actions any law enforcement agency takes when their officers utilize deadly physical force, and it is our goal to ensure the community is confident and accepting of the actions Polk County Law Enforcement agencies take when involved in these situations.

Section 1: Administration

- (1) In the event that a member of the planning authority is unable to continue to serve, a replacement shall be appointed as provided in Section 2(1) of Senate Bill 111, Oregon Laws 2007.
- (2) There shall be six voting members of the Planning Authority. The approval of the Plan, elements or revisions thereof, shall be by majority vote.
- (3) The presence of 2/3 of the voting members shall be required in order to hold any vote.
- (4) Any meeting of a quorum of the voting members of the Planning Authority is subject to Oregon's open meeting law.

Section 2: Applicability of the Plan

- (1) This plan shall be applicable, as set forth herein, to any use of deadly physical force by a police officer acting in the course of and in furtherance of his/her official duties, occurring within Polk County.

Section 3: Definitions

Agency – Means the law enforcement organization employing the officer who used deadly physical force.

Plan - Means the final document approved by the Planning Authority, adopted by two-thirds of the governing bodies employing law enforcement agencies,

and approved by the Attorney General. Any approved revisions shall become a part of the Plan.

Deadly – Physical Force	Means physical force that under the circumstances in which it is used is readily capable of causing death or serious physical injury.
Serious-Physical Injury	Has the same meaning as “serious physical injury” as defined in ORS 161.015(8).
Physical-Injury	Means impairment of physical condition or substantial pain that does not amount to “serious physical injury.”
Involved-Officer	Means the person whose official conduct, or official order, was the cause in fact of the death of a person. “Involved Officer” also means an officer whose conduct was not the cause in fact of the death, but who was involved in the incident before or during the use of deadly physical force, and this involvement was reasonably likely to expose the officer to a heightened level of stress or trauma.

Section 4: Immediate Aftermath

- (1) When an officer uses deadly physical force, the officer shall immediately take whatever steps are reasonable and necessary to protect the safety of the officer and any member of the public.
 - (a) After taking such steps, the officer shall immediately notify his or her agency of the use of deadly physical force.
 - (b) Thereafter, the officer, if able, shall take such steps as are reasonably necessary to preserve the integrity of the scene and to preserve evidence.
 - (c) Upon request, the officer shall provide information regarding the circumstances as necessary to protect persons and property, preserve any evidence, and to provide a framework for the investigation.
- (2) If the use of deadly physical force results in physical injury, the Agency may employ its own resources to investigate and document the incident.
 - (a) This section does not prohibit the Agency from requesting assistance from an outside law enforcement agency.

Section 5: Serious Physical Injury/Death

When the use of deadly physical force results in death or serious physical injury to any person, in addition to the requirements of Section 4 (1) of this Plan, and not withstanding agency policy, the following provisions apply:

- (1) Upon the arrival of additional officers, sufficient to manage the scene, each Involved Officer shall be relieved of the above duties set forth in Section 4 (1) of the Plan, and the duties shall be re-assigned to uninvolved police personnel.
- (2) The on-scene supervisor, or officer in charge, shall take immediate action to stabilize the situation, ensure notification of the appropriate staff and agencies, and shall obtain information relevant to public safety (e.g. outstanding suspects, location of evidence, direction of travel, etc.)
- (3) As soon as practicable, each Involved Officer shall leave the scene, accompanied by a companion officer chosen by the Involved Officer and be offered an opportunity for a medical examination. If the officer is not in need of medical treatment, the officer shall be taken to a location designated by the investigative agency. Following the use of deadly physical force, the officer's union representative shall be notified.
- (4) As soon as practicable, the duty weapon of any officer who fired his/her weapon shall be seized by investigators, and replaced with a substitute weapon, if appropriate. Other involved officers' weapons are subject to seizure by the investigative agency.
- (5) After consultation with the involved officer(s), the Agency or officer shall notify the officer's family according to the Agency's policy regarding such notification.
- (6) As soon as practicable after the arrival of a supervisor, notification shall be made to the District Attorney as provided in Section 8(1) of this Plan.
- (7) Interview of an "Involved Peace Officer":

As used in this section "interview" refers to formal interview of the officer by assigned investigative personnel that occurs a reasonable time after the incident, and after the officer has had an opportunity to consult with counsel, if so desired.

- (a) The interview of the involved officer(s) who discharged a firearm during a use of deadly physical force incident resulting in death or serious physical injury, shall occur after a reasonable period of time to prepare for the interview and taking into account the emotional and physical state of the officer(s). The interview shall occur no sooner than 48 hours after the incident, unless this waiting period is waived by the officer.

- (b) The waiting period does not preclude an initial on-scene conversation with the officer to assess and make an initial evaluation of the incident.
 - (c) The on-scene supervisor shall take immediate action to stabilize the situation, ensure notification of the appropriate staff and agencies, and shall obtain a preliminary statement from the involved officer as soon as possible. The purpose in obtaining this statement will be to obtain public safety information (e.g. outstanding suspects, location of evidence, direction of travel, etc.).
 - (d) The scene shall be secured and managed consistent with the control of any other major crime scene. Only personnel necessary to conduct the investigation shall be permitted access to the scene. When it is determined that no evidence will be contaminated or destroyed, the officer (s) involved may conduct a "walk through" to assist in the investigation.
- (8) For at least 72 hours immediately following an incident in which the use of deadly physical force by a police officer resulted in the death of a person, a law enforcement agency may not return an Involved Officer to duties that might place the officer in a situation in which the officer has to use deadly force.
- (a) Officer (s) involved in discharging his or her firearm that results in death or serious physical injury shall immediately be placed on administrative leave until such time as sufficient information exists to determine the justification in the use of deadly physical force and that the officer (s) have had an opportunity for mental health counseling with an outcome that no issues would preclude the officer (s) from performing the duties of a peace officer.
- (9) In the six months following a use of deadly physical force incident that results in a death, the Agency shall offer each Involved Officer a minimum of two opportunities for mental health counseling. The officer shall be required to attend at least one session of mental health counseling.
- (a) At agency expense, the involved officer (s) shall be scheduled for an appointment with a licensed mental health counselor for a counseling session with a follow-up session scheduled at a date determined by the mental health professional.
 - (b) The counseling sessions are not to be considered fitness for duty evaluations, and are to be considered privileged between the officer and counselor.

- (10) Prior to a final determination being made by the District Attorney, the District Attorney and the primary investigative agency shall consult with each other and make a public release of information as is deemed appropriate.

Section 6: Primary Investigative Agency

After consulting with the District Attorney, the Agency shall decide what law enforcement agency will be the primary investigating agency. In the event that the involved officer's own agency will be the primary investigating agency, and the incident resulted in a death, the Agency will promptly make arrangements for at least one investigator from outside the Agency to participate in the investigation.

- (a) In the event that a use of deadly physical force resulting in death or serious physical injury involves officers from multiple jurisdictions, the District Attorney and each involved agency shall consult and agree upon a primary investigative agency.

Section 7: Investigation Protocols

- (1) The investigation, at a minimum, shall consist of:
 - (a) Eyewitness interviews.
 - (b) Evidence collection.
 - (c) Scene documentation.
 - (d) Background interviews.
 - (e) Involved Officer interview(s)
 - (f) The name, gender, race, ethnicity and age of the decedent.
 - (g) The date, time and location of the incident.
 - (h) A brief description of the circumstances surrounding the incident.
- (2) The investigation shall be documented in written reports.
 - (a) All written reports and taped statements shall be filed with the investigator's agency, and copies provided to the lead investigative agency, and the Involved Officer's agency.

- (b) All police reports shall be provided to the District Attorney.

Section 8: District Attorney

- (1) When an incident of the use of deadly physical force by an officer occurs, and death or serious physical injury results, the agency shall, as soon as practicable notify the District Attorney's Office.
 - (a) Notification shall be made to the District Attorney, Chief Deputy, or other senior member of the District Attorney's staff.
- (2) When a use of deadly physical force by an officer occurs, and death or serious physical injury results, the District Attorney, and/or a senior member of his staff will consult with the agency regarding the investigation and implementation of the other elements of this plan.
- (3) The District Attorney has the sole statutory and constitutional duty to make the decision on whether to present a matter to a Grand Jury.
 - (a) Preliminary Hearings will not be used as a method of reviewing an officer's use of deadly force.
 - (b) The District Attorney will consult with the investigating agency and make the decision on whether to present the case to a Grand Jury.
 - (1) The timing of the decision will be made by the District Attorney at such time as he has determined that sufficient information is available to competently make the decision.
 - (c) If the District Attorney decides to present a case to the Grand Jury, the District Attorney shall promptly notify the investigating agency, the involved officer's agency, and the involved officer's representative.
 - (d) If the District Attorney decides that the investigation reveals that the officers use of deadly force was justified under Oregon law, and that Grand Jury review is unnecessary, the District Attorney shall so notify the Agency, the involved officer, the involved officer's representative, and the public.
- (4) If the use of deadly physical force results in physical injury to someone other than a police officer, upon completion of the investigation, all investigative information shall be forwarded to the District Attorney for review.

Section 9: Debriefing and Reporting

The use of deadly physical force by an officer has the potential to create strong emotional reactions which have the potential to interfere with an officer's ability to function. These reactions may be manifested immediately, or over time. Further, these reactions may occur not only in an officer directly involved in the incident, but also in other officers within the Agency.

The requirements of this section provide a minimum framework, and are not intended to take the place of Agency policy. Agencies are encouraged to develop formal procedures to deal with an officer's stress response following a use of deadly force incident. Such polices should include a procedure that are implemented from time of the incident and continue over time.

- (1) Upon a final determination by the District Attorney, the Agency shall conduct an internal review of the matter for compliance with agency policy. Such review, at a minimum shall include a review of the incident with the involved officer.
- (2) Each agency shall provide for a process for any officer who makes a request, to participate in a critical incident debriefing.
- (3) If available, agencies should encourage officers to take advantage of Employee Assistance Programs, and if appropriate, agencies should request assistance from other agencies that may have in place formal programs for dealing with critical incidents.

Section 10: Reporting, Training, Outreach

- (1) Each law enforcement agency within Polk County, shall include in its policy regarding the use of deadly force, a provision regarding engaging members of the community in a discussion regarding the Agency's policies on the use of deadly force, as well as discussions regarding the use of deadly force by the Agency's personnel.
- (2) Each law enforcement agency within Polk County shall provide a copy of this Plan to every officer, incorporate the plan into agency policy documents and provide training to peace officers and attorneys employed by the Polk County District Attorneys Office on the implementation of the plan, including use of deadly physical force training.
- (3) Upon the conclusion of the investigation, the announcement by the District Attorney pursuant to Section 8(3) of this Plan, and the debriefing, the Agency

shall complete the Attorney General report regarding the use of force, and submit the report to the Attorney General.

- (4) The Board and Department of Public Safety Standards and Training requires 8 hours per year, 24 hours over a three-year period of training from either the “firearms” or “use of force” subject areas. Each agency subject to this Plan shall require that a minimum of four (4) hours per year, twelve (12) hours over a three-year period, of that training be on the use of force. The training must include education on the agency’s use of force policy. This training may also include, but is not limited to:
 - (a) Defensive Tactics;
 - (b) Tactical Shooting;
 - (c) SWAT Training;
 - (d) Use of force in making an arrest;
 - (e) Use of non-lethal force.

Each agency shall have a written policy and monitoring system to ensure that the standards are met.

- (5) Prior to the adoption of this Plan, the Planning Authority shall take steps to engage the Polk County community in a discussion regarding the purpose of the Plan, and the elements contained therein. Such steps shall include, but are not limited to general release of the draft, discussion with the media, providing the draft to agency employees, union representatives, elected officials, and members of relevant boards or commissions.
- (6) After adoption of this Plan, to the extent they are fiscally able, each agency shall take steps to publicize the Plan to their respective communities, by providing information to the media, general public, community organizations, and quasi-governmental bodies.
- (7) At least once per calendar year, the Agencies subject to this Plan shall collectively conduct a seminar intended to educate the media and selected members of the Polk County community in the use of force by law enforcement officers, and the investigation of such incidents.

Section 11: Fiscal Impact

- (1) At the conclusion of each fiscal year following the adoption of the Plan, each agency shall submit to the administrator of the Plan, a report outlining the fiscal impact of each element of the Plan as described in sections (a) to (e) of Section 2 (4) of Senate Bill 111, Oregon Laws 2006.

Section 12: Plan Revision

- (1) Beginning January 1, 2009, and each year thereafter, the Planning Authority shall meet at least once to review and discuss the operation of the Plan.
- (2) If a revision of the Plan becomes advisable, the Planning Authority shall meet and discuss such a revision. If the Planning Authority adopts a revision, such revision shall be submitted for approval as provided by statute.

Section 13: Agency Policies

Each law enforcement agency in Polk County shall provide a copy of the individual agency policy on dealing with use of deadly force and said policy is attached to this plan.

**STAFF REPORT
DATE: MAY 12, 2008**

FILE NO.	ZONE/3-07
HEARING DATE	MAY 19, 2008 7:30 P.M. CITY HALL COUNCIL CHAMBERS 187 SE COURT STREET DALLAS, OREGON 97338
OWNER	RAYMOND BAKER & DANIEL CARVER
REQUEST	ZONE CHANGE
LOCATION	1130 W. ELLENDALE AVENUE
RECOMMENDATION TO COUNCIL	APPROVAL WITH CONDITIONS

**CITY OF DALLAS
CITY COUNCIL
COMMUNITY DEVELOPMENT
DIRECTOR STAFF REPORT**



HEARING DATE: MAY 19, 2008
OWNERS: RAYMOND BAKER & DANIEL CARVER
APPLICATION: ZONE CHANGE
LOCATION: 1130 W. ELLENDALE AVENUE

HEARING DATE:	MAY 19, 2008
APPLICATION TYPE:	ZONE CHANGE
OWNERS:	Baker / Carver
LOCATION:	TAX LOT 7.5.29 505
COMPREHENSIVE PLAN MAP LAND USE DESIGNATION:	RM – RESIDENTIAL MEDIUM DENSITY
SIZE	15.7 ACRES

REQUEST:

The applicant is requesting a zone change for a 15.7 acre portion of Tax Lot 7.5.29 505 from RA Residential Agricultural to RMD Residential Medium Density.

BACKGROUND:

This request is based on a prior Comprehensive Plan Amendment adopted by the City Council on February 19, 2008. The Planning Commission recommended Approval of this zone change at their April 8, 2008 meeting.

PUBLIC NOTICE:

The City has provided public notice identifying the owner/applicant, describing the project, location, and the scheduled date of the public hearing. The notice has been mailed to all property owners within 100 feet of the subject property and published in the Itemizer-Observer.

APPROVAL CRITERIA: SECTION 3.7.40 OF THE DALLAS DEVELOPMENT CODE

No Comprehensive Plan Map (including street designations) or Zoning Map boundary shall be amended except upon a finding of compliance with this section. In order for a zone change application to be deemed complete the applicant shall address each of the criteria listed below in a written narrative. The applicant shall bear the burden of proof by demonstrating with substantial evidence that each of the following criteria has been satisfied:

(1) **Zone Changes That Implement the Comprehensive Plan.** Where a zone change is proposed in conformance with the Comprehensive Plan Map, the applicant must submit a site plan and demonstrate conformance with the following criteria:

- (a) The applicant shall analyze alternative sites capable of meeting the purported need, considering the land needs assessment in Volume II of the Dallas Comprehensive Plan. This analysis shall demonstrate that there is a shortage of designated land within the City limits available to meet the purported need, and that changing the zone will not result in a shortage of land in any other plan designation.

Finding: The proposed zone change to Residential Medium Density (RMD) is consistent with the Comprehensive Plan Map Amendment approved by the City Council in February 2008, which designated this portion of the site RM. Staff has prepared an analysis of existing vacant RMD land and projections for future needs in accordance with the Comprehensive Plan. The analysis shows that there are approximately 14.7 acres of vacant RMD land, all of which is located in the central and east parts of the city. There is no vacant RMD land on the west side of the city. At an average density of 10 dwelling units/acre, the existing vacant land can accommodate approximately 147 dwelling units. Volume II of the Dallas Comprehensive Plan shows a need for 78 acres of Multi-family land through 2020. The existing 14.7 acres of RMD land plus approximately 5 acres of vacant RHD land demonstrates that there is a shortage of approximately 20 acres of multi-family land through 2020. The proposed zone change would decrease that shortage to approximately 5 acres, without creating a shortage of land in any other plan designation.

CONCLUSION: It can be found that the proposed zone change is in conformance with the requirements of the Comprehensive Plan.

- (b) Adequate public facilities are available to meet increased demand for services that may result from potential development allowed on the rezoned site. The applicant shall demonstrate that:
 - i) All public facilities projects identified in Chapter VII of the Dallas Comprehensive Plan which serve the area where the zone change is proposed have been constructed or are programmed to serve the site within the next five years; and that the required public facilities improvements will be in place and operational in conjunction with the development of the site.

Finding: All projects identified in Chapter VII of the Comprehensive Plan are either constructed (water, sanitary sewer, streets and sidewalk) or will be constructed as development occurs in the Wyatt Node.

- ii) Sanitary sewer, water and storm drainage collection and distribution systems are adequate to handle the increased loads required by the rezoning, as determined by the Director of Public Works.

Finding: The Director of Public Works has determined that the applicable systems, including water, sanitary sewer, and storm drainage, are or can be made adequate to handle the increased loads as development occurs in the Wyatt Node.

- iii) Streets serving the proposed site are adequate to accommodate increased vehicular, bicycle and pedestrian traffic safely and efficiently. To make this determination, the City may require that the applicant prepare a transportation impact study which demonstrates, at a minimum, that no street link or intersection affected by the proposed subdivision will exceed LOS (level-of-service) D during peak morning or evening demand periods or LOS C during non-peak demand periods. This traffic impact study must consider the proposed development and probable development within the area served by each street link or intersection for at least a 10-year period.

Finding: Based on the information and analysis contained in the TSP, it does not appear that the proposed development resulting from this the zone change will exceed LOS D for the 10-year period. However, as part of the development of the Master Plan for the node, staff will require a Traffic Impact Analysis to ensure that the proposed development does not exceed standards, and meets the requirements of the Transportation Planning Rule (TPR) relating to significant impacts.

- iv) Where street, utility, sidewalk, or bicycle improvements are roughly proportional to the impacts from proposed development that will likely result from the proposed zone change, and these improvements are required in City plans, then the applicant shall agree in writing to install the required improvements at the developer's expense.

Finding: There are no improvements required as a result of the zone change. Public improvements will be provided as the Wyatt Node develops.

CONCLUSION: It can be found that adequate public facilities are available or will be available to meet increased demand for services that may result from potential development allowed on the rezoned site.

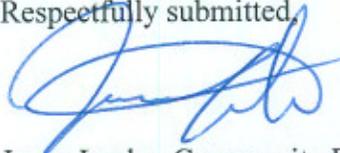
RECOMMENDATION:

Staff recommends that the City Council approve this zone change request and direct staff to prepare an Ordinance adopting the zone change with the following conditions:

1. Prior to the issuance of certificates of occupancy for the RMD development on this portion of the site, the applicant shall submit to the City a Master Plan and Zone Change application for the entire Wyatt Node in accordance with the Dallas Comprehensive Plan and Development Code.

2. The applicant shall apply for and receive approval for all infrastructure and buildings associated with this portion of the Wyatt Node in accordance with the procedures contained in the Dallas Development Code.

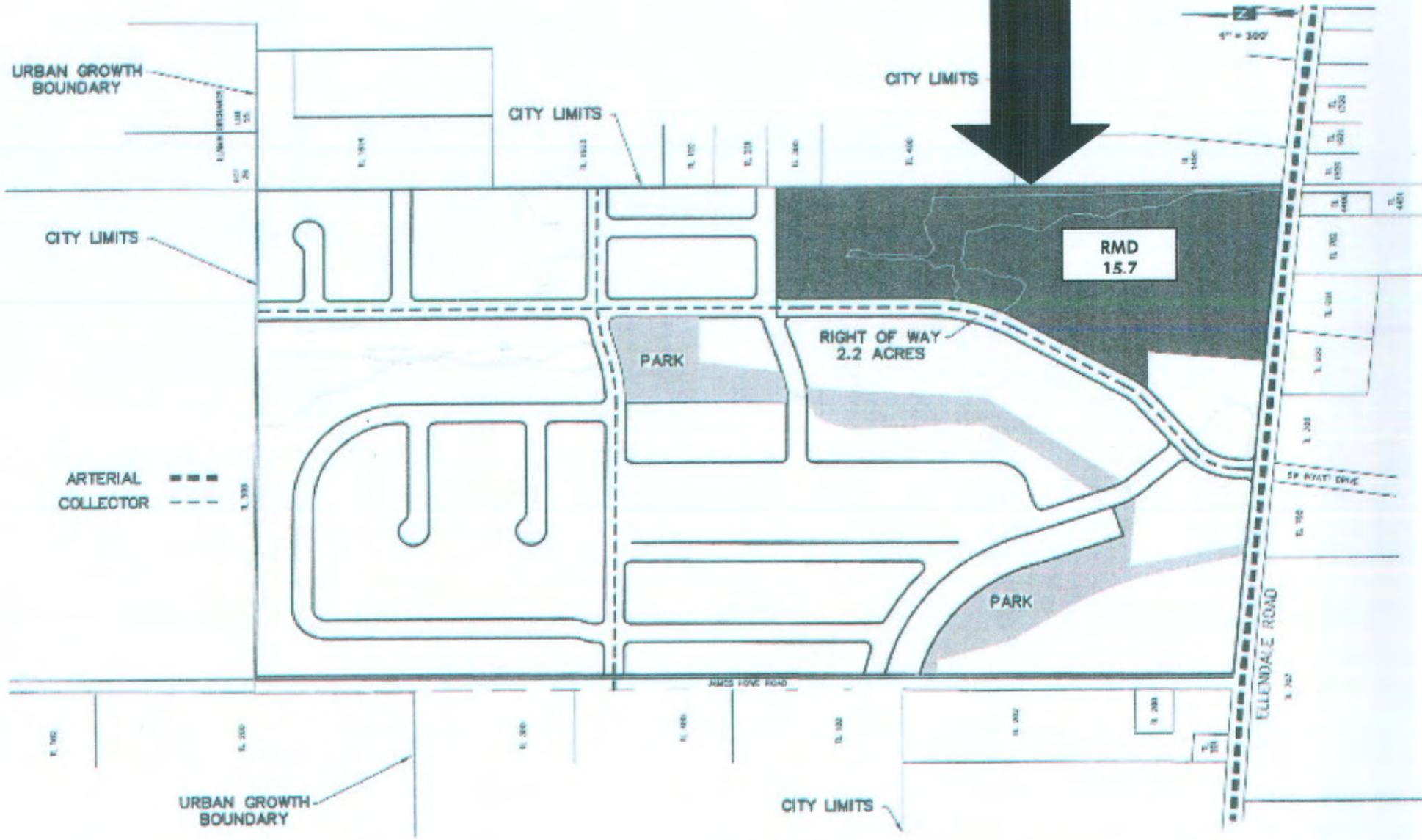
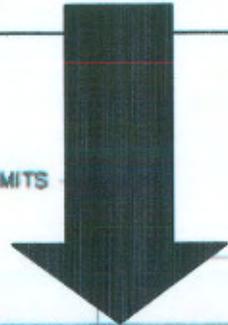
Respectfully submitted,

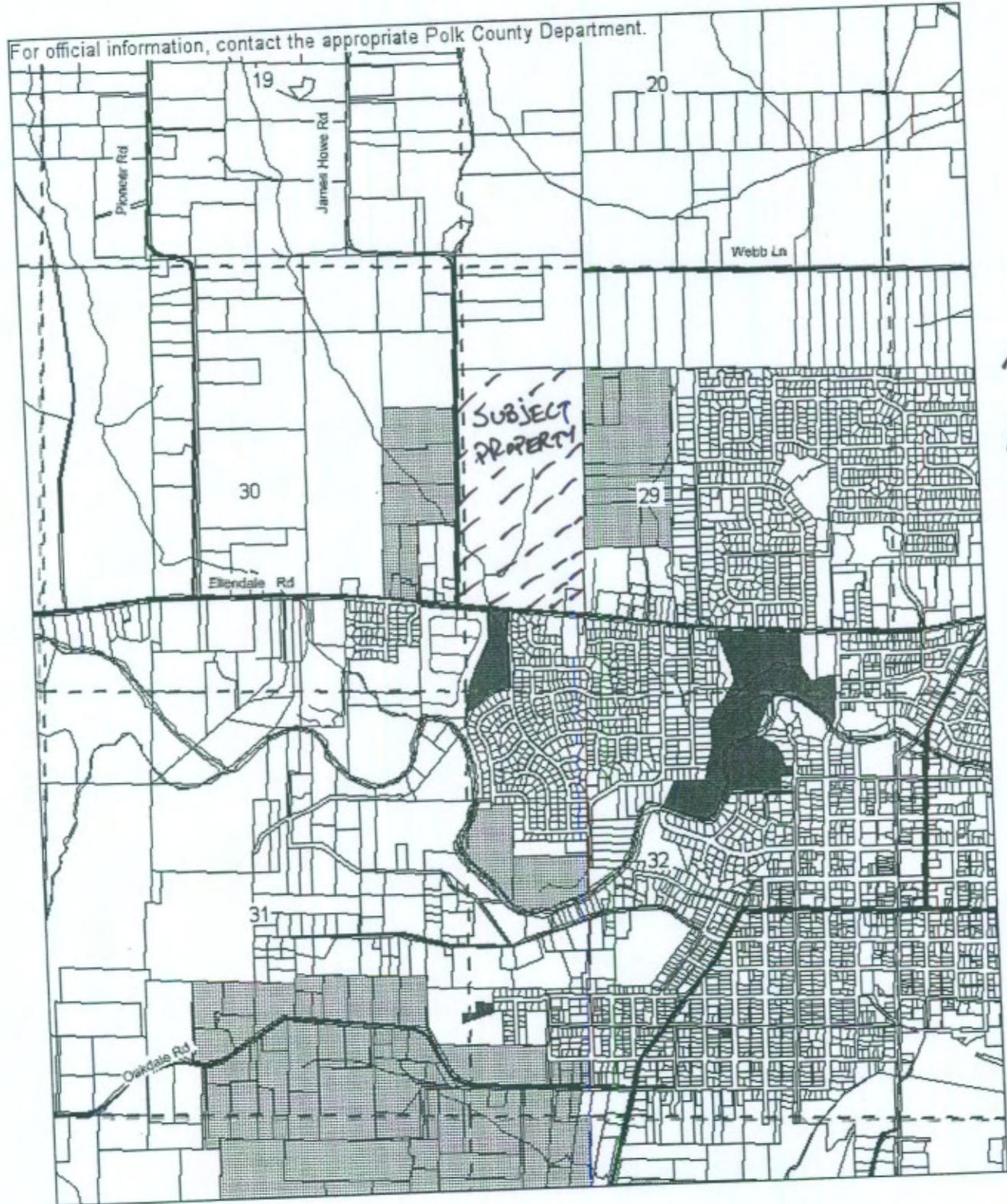


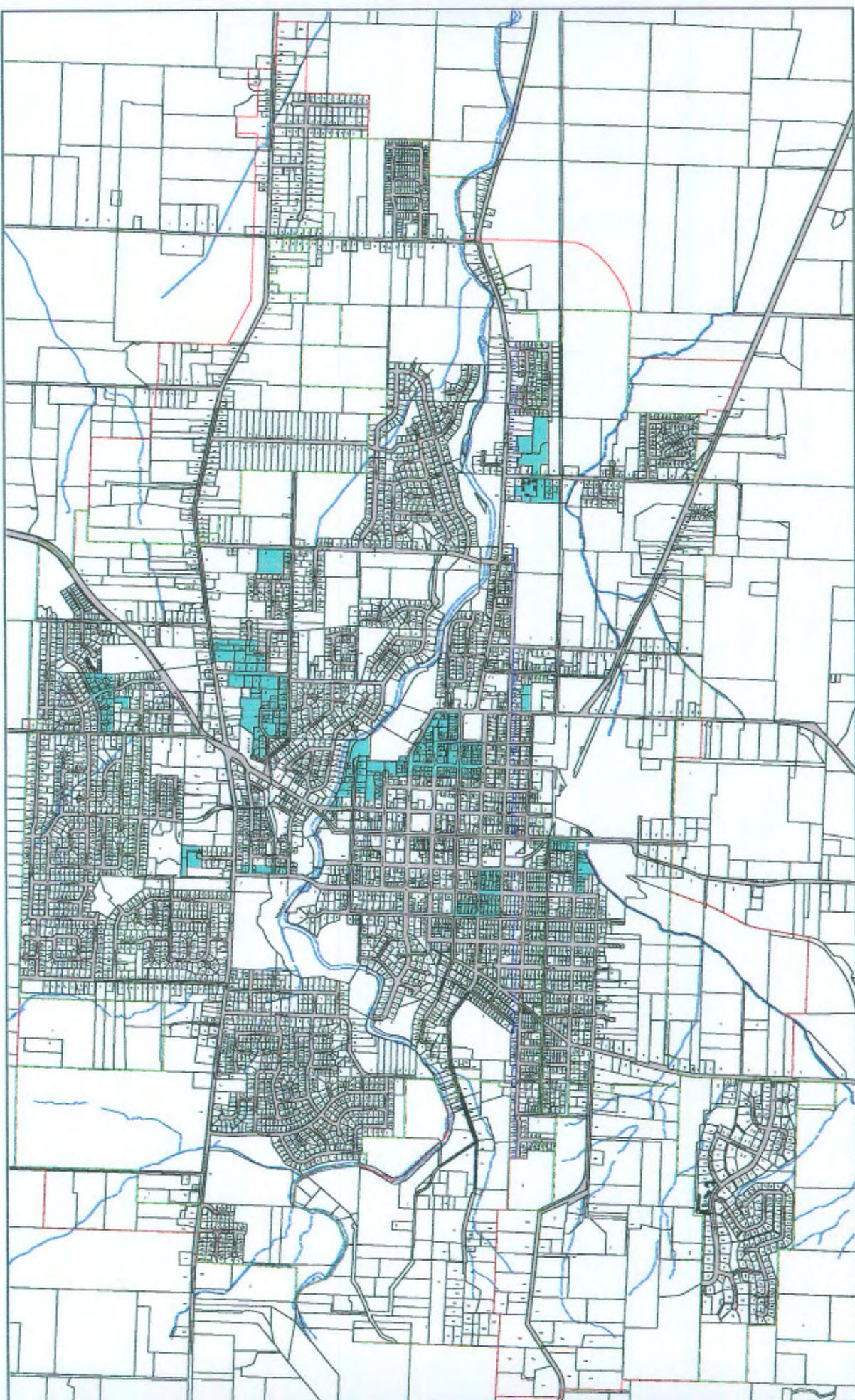
Jason Locke, Community Development Director

Zone Change

From: RA – Residential Agriculture to RMD – Residential Medium Density







City of Dallas - Medium Density Residential Zoning Map

The meeting was called to order by the President of the Commission, Chuck Lerwick.

Roll was called and Commission members present were: Chuck Lerwick, Scott McLeod, Dave Pederson, Doris Stefani, and Bob Wilson.

Excused were: John Davis and Michael Lough.

Also present: Mayor Jim Fairchild, Community Development Director Jason Locke, City Attorney Lane Shetterly, Planner John Swanson, and Patti Senger as Recording Secretary.

President Lerwick called for any corrections or changes to the minutes of the regular meeting of January 8, 2008, and workshops of February 7th and April 3rd. Hearing none, he declared the minutes approved as presented.

President Lerwick made an announcement regarding the Hearing Guidelines and stated that copies of the guidelines were available at the door. There were no questions regarding the hearing guidelines.

President Lerwick then called for declarations of ex-parte contacts, conflicts of interest, or site visits; there were none voiced.

PUBLIC HEARINGS:

WYATT MIXED
USE NODE

ZONE CHANGE

A public hearing on the application for a zone change from Residential Agriculture (RA) to Residential Medium Density (RMD) on a 15.7 acre portion of the property in the Wyatt Mixed Use Node located at 1130 W. Ellendale, Dallas, Oregon. The applicants are Ray Baker and Daniel Carver, owners of record.

1130 W
ELLENDALE
AVE

John Swanson reviewed the staff report and stated the background of the request. He directed the Commission and the audience to the map on the screen showing the portion of the property for re-zoning. He read the two (2) conditions recommended in the staff report.

President Lerwick called for the applicant's presentation.

Bill Lulay with North Santiam Paving, PO Box 516, Stayton, Oregon 97383, stated that he is in agreement with the staff report and the conditions and would be glad to answer any questions.

President Lerwick called for speakers in favor of the request. There were none.

He called for speakers in opposition to the request.

Dr. George Samerotte, 401 NW Douglas Street, Dallas, Oregon stated that his property is located behind the Wyatt Node and that the proposed residential medium density housing would devalue his property. He discussed his intention of building multiple homes valued at \$500,000 on his property for his children and stated that this zone change would lower the value of these homes. He stated he would sue the owners of the property where the development will occur for loss and damage to his property and further stated that he will file a class action suit against the City. He discussed his work history as a developer and issued a warning about large developers from other areas taking over the Planning Commission as it has in other places where he has lived.

Alan Bird, son of Leland and Shirley Bird, 1080 W. Ellendale Avenue, Dallas, Oregon stated that his parents could not be at this meeting and that they own the property immediately next door. He read a letter from them into the record. He stated his opinion that the development would result in a loss of the town's identity as a rural community and questioned the need for more development due to lack

of sales in the development south of this area which is similar and includes a park as well.

Harlan Howard, 397 NW Douglas Street, Dallas, Oregon stated that there is a large benefit for the developer and a devaluation of his property with no compensation. He also stated his concern about the traffic impact.

Comments or questions were called for.

Carol Kowash, 1111 West Ellendale Avenue, Dallas, Oregon stated that she is involved in developing apartments and applauds the mix of housing and apartments. She stated that smart growth includes evaluation of drainage issues, discussions between developers and neighbors, inclusion of playgrounds and a clubhouse in the site plan for medium density housing, traffic flow, and school impact. She suggested more information about the project in the newspaper.

Alan Bird asked about traffic studies. Jason Locke responded that a condition of approval by the City is that the developer must provide a Master Plan that will include a vehicle/capacity ratio, a traffic impact analysis, as well addressing drainage issues. Mr. Bird asked if the Master Plan will review water run-off and pollution levels and expressed his concern about water flowing into Rickreall Creek. Mr. Locke responded that the City is required to look at water quality and that impermeable surface runoff is regulated by storm water permits and use of bioswales. Mr. Bird asked if this will come out of the City Budget. Mr. Locke responded that these things will be paid for by the developer. Mr. Bird asked about the per capita issues impacting schools. Lane Shetterly responded that school impact is not a criterion under the law for the Planning Commission or the City on this zone change. Mayor Jim Fairchild stated the City is working hand in hand with the school district to solve problems as quickly and as well as possible.

Ms. Kowash stated that smart growth will look at the reality of developmental impact in areas such as traffic and schools and said that the fees charged to the developer will not cover the cost of the infrastructure and that it will affect the City budget. She suggested that the developer absorb the costs such as adding traffic signals and sidewalks along W. Ellendale that will be needed as a result of this new development.

Dr. Samerotte asked to discuss the developer's asset base to see if he can successfully complete the project. Mr. Shetterly stated that this is not a criterion to consider on a zone change application.

Mary Samerotte, 401 NW Douglas Street, Dallas, Oregon asked about the exact plan stating that initially the paperwork listed this area as high density and later as medium density and if it was the developer's choice on which density of housing to build. Mr. Locke responded that the Comprehensive Plan was adopted in 1998 and mandates at least 15 acres of this land to be designated as Residential Medium Density (RMD) and also requires 10% open space and recreation areas on that site. He explained what it can include as well as the fact that it will exclude residential single family homes. He stated they are not required to have a site plan at this point.

Mr. Bird asked if this property is located within the City limits. Mr. Locke stated that it is and showed the Urban Growth boundary and the City limits boundary on the map and explained that Forest Deferred land can be inside the City limits.

Ms. Samerotte asked if the 15 acres is specifically on this parcel. Mr. Locke explained the rationale in choosing this portion of the node as RMD is based on putting higher density areas with higher intensity uses closer to the transportation facilities and commercial services and stated that the requirement of the master plan will show how it will work. Mr. Shetterly asked if the master plan is required before they begin development on this 15 acre piece. Mr. Locke responded that it is not required before development.

Mr. Howard stated that this is beneficial for the developer and that he will make money but that it will take money out of the pockets of those living alongside the zone change and is asked why his property should have to be devalued. Mr. Locke stated that this is a conceptual plan and that a master plan must be developed.

William Heffley, 1151 Irick Court, Dallas, Oregon asked if the 10 year old decision for residential medium density housing in this area could be changed by the current City Council. Mr. Shetterly answered that the City Council amended the Comprehensive Plan recently and it included the corresponding plan.

Mr. Bird asked what was presented to the City Council to show a projected need for the residential medium density housing in this area. Mr. Locke explained that a projected need is not a requirement for a zone change. He also explained that the development of this node will take years based on the allocation of building permits and market conditions.

Mrs. Kowash asked about arterials in the node attaching to main arterials out of town in consideration of people who commute to out of town jobs. Mayor Fairchild explained that connecting the arterials is in the long range-plan and would require work with the County. Ms. Kowash asked about minimum and maximum dwelling units per acre. Mr. Locke responded that the minimum is 16-22 per gross acre. Mayor Fairchild stated that this is approved by State code.

Mrs. Samerotte stated that the cap on building permits was 125 a few years ago and now it is 145 and asked about future increases. Mayor Fairchild explained that the number of building permits issued is based on utilities, discussed the Council's policies in division of the utilities, and reviewed State requirements to evaluate resources available.

Mr. Howard asked if the plan could be changed to move the medium density housing to the middle of the property to alleviate the impact on the properties adjacent to the development. Mr. Shetterly answered that public notices went out before the Planning Commission meeting in January and the City Council meeting in February where the Comprehensive Plan was adopted. He stated that this zone change implements what was adopted by the City Council. Mr. Howard asked if we could move the zone change to another portion of the property. Mr. Shetterly responded that it would take a Comprehensive Plan amendment.

President Lerwick called for rebuttal testimony.

Bill Lulay stated that they have been working with the City for the last 18 months and that the Comprehensive Plan has tight criteria under which they have been working to develop this plan. He stated that he is working with the City on a master plan, working with existing road networks, and that he went to quite a bit of effort to save open spaces, the natural drainage ways, and the existing pond in upper park that they will keep and enhance. He said that development would happen in phases and, that public facilities will be reviewed in detail by the City prior to construction. He stated that the City has already benefited from this project because the property owners have improved W. Ellendale and the City did not pay for rock, excavation, curbs, and sidewalks.

Questions by Commission members were called for. There were none.

The Public Hearing was closed for discussion by Commission Members.

Dave Peterson stated he reviewed the master plan/node development plan and that there is heavy and medium density housing throughout the entire City except the western part, where there is none. He said the goal of the City's master plan is to have these evenly distributed throughout the City. He discussed the State's goals for Oregon and stated that it is to keep development within the cities and Urban Growth boundaries. He discussed the history of the developer and the some of the struggles

they have had in the development of this property. He also discussed the apartments that are in close proximity to his own home and the lack of impact they have had.

Dave Pederson made a motion to send to forward this request to City Council as presented in the staff report with the two (2) listed conditions. The motion was seconded and carried unanimously.

The President announced the period to appeal the Commission's decision; 10 days following the date of the letter stating said decision is mailed to the participants.

TRANSPOR-
TATION
SYSTEM PLAN
(TSP)

Discussion of Transportation System Plan (TSP) final draft proposed revisions.

Jason Locke stated that the Transportation System Plan (TSP) is organized in response to the transportation planning rule, which requires evaluation of existing conditions and policies in the City, County, and ODOT. He stated that CH2M Hill put together the TSP and the improvements in sections 7, 8, and 9 identify the capital costs at \$56,484,200. The TSP sets up priorities and funding of those projects with availability of grant funds, capital improvement funds, and Systems Development Charges (SDCs). He noted that the SDCs will be charged based on this improvement list and discussed specifics of the basis of the methodology of SDC charges and stated gas and cigarette tax funds, state grant programs, urban renewal programs, and street utility fees are different potential funding sources. He stated that staff has set the priority on these projects and explained the need to include projects that may not be currently fundable because grant funds may become available for very specific types of projects only if they are on the list.

Lane Shetterly discussed the history of Measure 5 and lack of federal government funding and its impact on private developers bearing the cost of infrastructure growth in order to develop their land.

Mr. Locke discussed a change that he had made on page 9-21 to recommend revising the local street standard width to 30' from 36' and the benefits of this change. He stated that he would recommend optional street widths of up to 36' in a commercial, industrial, or high density residential zone where off-street parking is likely to occur or if the street will carry more than 1500 vehicle trips per day. Discussion took place regarding what streets have this amount of vehicle traffic and Mr. Locke said this number could be adjusted by the Planning Commission. Mr. Pederson asked if the purpose to do this is to save land. Mr. Shetterly stated that it will save infrastructure costs by reduction in paving and maintenance for the City and the developers. Mr. Pederson stated that wide streets look and feel classy and welcoming and asked if this would have a negative impact on the City as a whole.

Chuck Lerwick discussed garbage service trucks and their requirements for turn radiuses to make turns on narrow streets.

Mayor Fairchild asked for a plot plan of the Edwards Addition for the Council to review.

There being no further business Mr. Lerwick adjourned the meeting at 9:14 pm.

Approved by the Planning Commission:

President

Date

ORDINANCE NO. 1684

An Ordinance amending the Dallas Comprehensive Plan Map for the Wyatt Mixed Use Node.

WHEREAS, the owners of the property designated in the Dallas Comprehensive Plan as the Wyatt Mixed Use Node have made application to amend the Comprehensive Plan Map for said node; and

WHEREAS, after due notice and public hearing, the Planning Commission recommended to the City Council that it approve the requested Comprehensive Plan Map amendment; and

WHEREAS, after due notice, the City Council held a public hearing on said application on January 22, 2008, and at the conclusion thereof found that the proposed Comprehensive Plan Map amendment was supported by substantial evidence in the record and should be approved; NOW, THEREFORE,

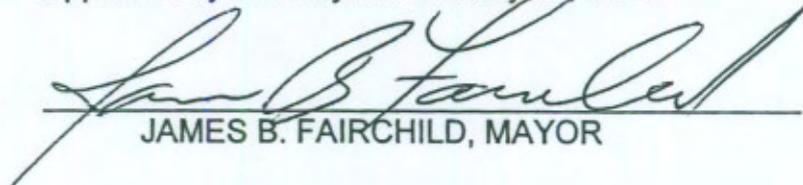
THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

Section 1. The application of the owners of the property designated in the Dallas Comprehensive Plan as the Wyatt Mixed Use Node be, and it hereby is, approved.

Section 2. The map attached hereto and marked Exhibit A is hereby adopted as the amended Comprehensive Plan Map for the Wyatt Mixed Use Node, and the current map of said node is hereby repealed.

Section 3. The Findings and Conclusions, including the Summary and Conditions, set forth in the staff reports on this matter before the Planning Commission and the City Council are hereby adopted and approved as the Findings and Conclusions and the Summary and Conditions in support of this Comprehensive Plan Map amendment.

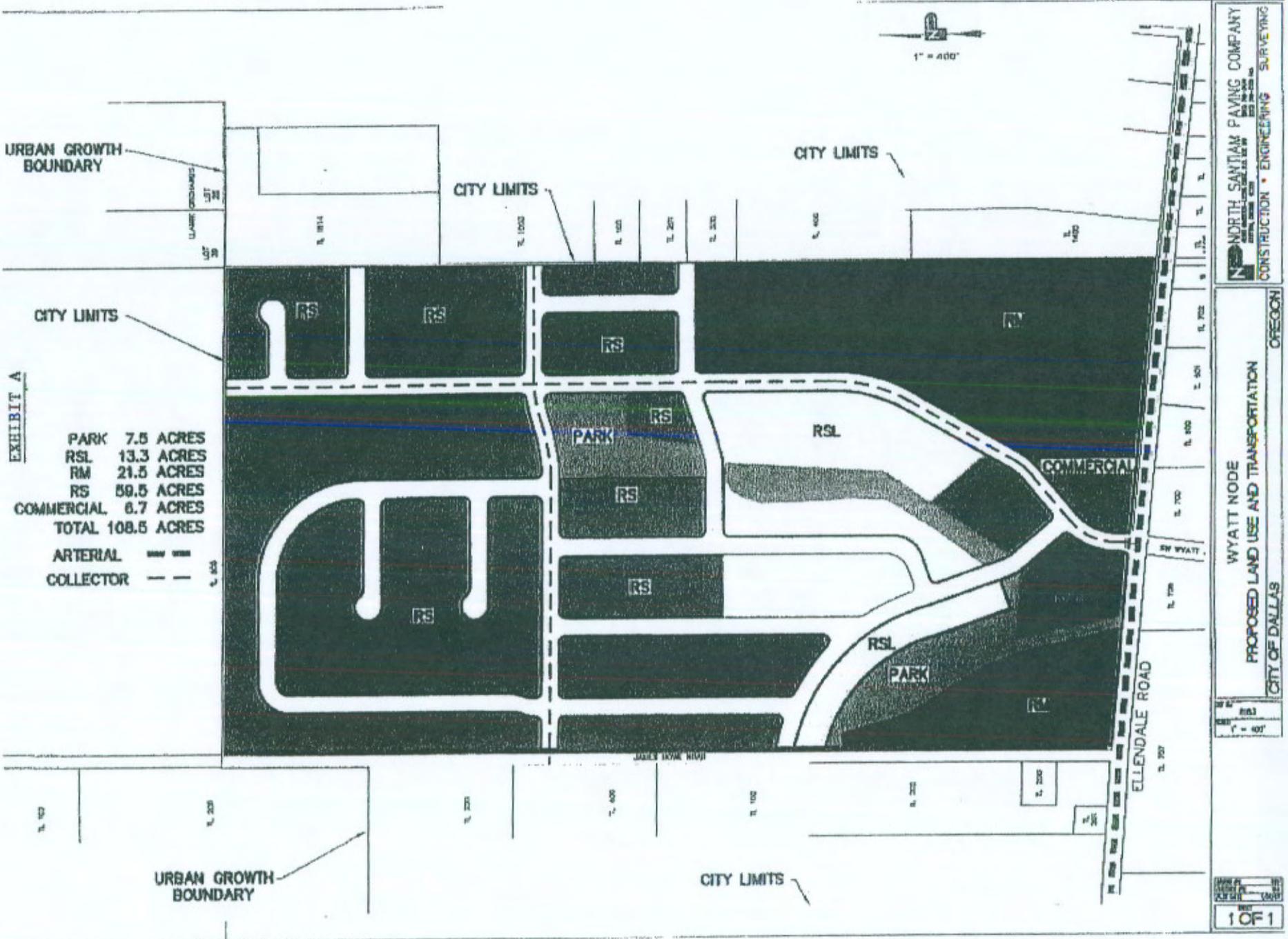
Read for the first time: February 4, 2008
Read for the second time: February 19, 2008
Adopted by the City Council: February 19, 2008
Approved by the Mayor: February 19, 2008


JAMES B. FAIRCHILD, MAYOR

ATTEST:


JERRY WYATT, CITY MANAGER

Ordinance – Page 1 of 1





LAND USE APPLICATION

City of Dallas

187 SE Court Street

Dallas, OR 97338 • 503-831-3571

PLEASE TYPE OR PRINT IN INK ONLY

FOR STAFF USE ONLY

- SITE PLAN REVIEW:
 - PARKING
 - SITE DEVELOPMENT
- LOT LINE ADJ (Type I)
- ADJUSTMENT (Type II)

- CONDITIONAL USE (Type III)
- SUBDIVISION (Type III)
- PARTITION (Type III)
- VARIANCE (Type III)
- ANNEXATION (Type IV)
- COMP PLAN (Type IV)
- ZONE CHANGE (TYPE IV)
- UGB EXPANSION (TYPE IV)

File No: _____
 Date Received: _____
 Fee \$ pd. 10/25/07
 Hearing Date: _____
 Staff Member: _____
 Zone: _____
 Comp. Plan: _____

APPLICANT INFORMATION

◆ Applicant-Please attach the following required information to this Land Use Application:

Initial

- NA _____ \$100 Pre-application Conference Fee, only as applicable. (DDC 1.3.30)
- _____ Completed Supplemental Application.
- _____ Supplemental Land Use fee.
- _____ Property deed with legal description. Land divisions also require a preliminary title search.
- _____ Plot Plan drawn to scale and a copy of any related information and/or maps. (No larger than 11"x17".)

Project Description APPROX 110 ACRES OF BARE LAND COMMONLY REFERRED TO AS THE WYATT ST NODE

Site Address 1130 W. ELLENDALE Total Land Area: APPROX 110 ACRES

Present Use of Property FARMING

OWNER(S):
Name(s) RAY BAKER AND DAN CARVER

Mailing Address 1345 70TH AVE SE City SALEM ST OR ZIP 97317

Applicant Phone: Work 503-588-7554 Mobile 503-559-4282 Fax: _____ Home _____

APPLICANT(S): (if not owner)
Name(s) RAY BAKER

Mailing Address 1345 70TH AVE SE City SALEM ST OR ZIP 97317

Owner Phone: Work _____ Mobile 503 559-4282 Fax: _____ Home _____

Applicant is: Legal Owner Contract Buyer Option Buyer Agent

I hereby certify the statements contained herein, along with the evidence submitted, are in all respects true and correct to the best of my knowledge.

Signatures (Required):
 Owner(s) Raymond K Baker Date 2/13/08 Applicant(s) _____ Date _____



**SUPPLEMENTAL APPLICATION
COMPREHENSIVE PLAN / ZONE AMENDMENT
(Type III or IV Procedure)**

APPLICANT INFORMATION

**Fee: \$2,500.00 Comp Plan
\$2,000.00 ZoneChange**

Name Ray Baker Date 2/13/08

COMPREHENSIVE PLAN AND ZONE AMENDMENT:

A Comprehensive Plan amendment is a request to amend the City's official Comprehensive Plan map from one land use designation (i.e. commercial, industrial, residential) to another. A zone change is a corresponding request to change the official zoning map from one zoning district (i.e. R-1 to C-1) to another in order to be consistent with the proposed Comprehensive Plan map designation.

NEEDED FOR APPROVAL:

All Comprehensive Plan Amendments and Zone Change Applications are discretionary and MAY be approved after an evaluation of the applicable policies in the Dallas Comprehensive Plan and criteria in the Dallas Development Code. The City must make written findings to support the decision to approve or deny the application. The applicant is responsible for providing evidence to support the Comprehensive Plan Amendment and Zone Change according to the policies in the Comprehensive Plan and criteria in the City Code.

CHANGES FOR APPROVAL:

Staff cannot predetermine the decision on this or any application. A decision of approval or denial will only be made after the complete application is processed. This includes review of citizen and agency comments. The decision is based on criteria appropriate to this application as listed in the Dallas Development Code and Comprehensive Plan. In order to address the necessary criteria, the information requested in this supplemental application should be as thorough and complete as possible.

APPLICATION PROCESS:

A Comprehensive Plan Amendment and Zone Change Application is subject to the public hearing process and public notice. Public comments received from property owners, agencies and other interested parties may affect the decision on the application. Special conditions may be attached to any approval. This application will be reviewed at a public hearing before the Dallas Planning Commission, who will forward a recommendation to the City Council. The City Council will then review the application at a public hearing and make the final decision. The City Council's decision may be appealed to the State Land Use Board of Appeals (LUBA).

HOW LONG IT MAY TAKE TO GET A FINAL DECISION ON AN APPLICATION:

It takes approximately 60 days for Planning Commission to make recommendation to City Council, and another 30 days for the City Council to hold a public hearing and make a final decision.

COMPLETE APPLICATION REQUIREMENTS:

1. Land Use Application – Information on applicant and land involved in application.
2. Supplemental Application – Information requested on this form. Please be as complete and thorough as possible. Use additional sheets as necessary.
3. Title Report – Can be obtained at any title company.
4. Application Fee - \$2,500.00 Comp Plan Change / \$2,000.00 Zone Change
5. Plot Plan drawn to scale on paper no larger than 11x17, showing the property and your proposal.

JUSTIFICATION CRITERIA:

See relevant City Code sections for specific requirements. Then answer the following questions:

1. How is approval of the requested zone change consistent with the goals and policies of the Comprehensive Plan?

PLEASE REFER TO SECTION 3.4 COMPREHENSIVE PLAN DATED JULY 1998
AND SECTION 3.9.6 OF THE DALLAS DEVELOPMENT CODE FOR THE
WYATT ST. MIXED USE NODE.

2. What public services (water, sewer, roads, etc.) are provided to the subject property, and are they adequate to support the level of development allowed if the zone change is approved, or are such services planned to be provided concurrently with development?

ALL PUBLIC SERVICES ARE AVAILABLE FOR DEVELOPMENT OF
THE SUBJECT PROPERTY. SANITARY SEWER IS AVAILABLE ON THE SOUTH
SIDE OF WEST ELLENDALE. AN EXISTING WATER^{MAIN} EXTENDS ALONG
THE NORTH SIDE OF WEST ELLENDALE, AND IS ADEQUATE TO SERVE
ALL EXCEPT THE HIGHEST SECTION OF THIS PROPERTY. STORM DRAINAGE
SHALL BE SERVED BY EXISTING DRAINAGE WAYS. WEST ELLENDALE
HAS BEEN FULLY IMPROVED ALONG THE ENTIRE FRONTAGE IN A
COOPERATIVE AGREEMENT BETWEEN THE CITY OF DALLAS AND DEVELOPERS
OF THIS PROPERTY AND ADJACENT PROPERTIES.

Page 2 of 2

RESOLUTION 3152

A Resolution establishing a schedule of rates and fees to be paid by persons using the Dallas Aquatic Center and repealing Resolution No. 2996.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

Section 1: The fees and rates charged for persons using the Dallas Aquatic Center are hereby adopted as set forth in Exhibit "A", attached hereto and by reference incorporated herein.

Section 2: All other rates, fees, and prices not expressly set forth in Exhibit "A" may be set by the City Manager.

Section 3: Upon the effective date of this Resolution, Resolution No. 2996 is hereby repealed.

Section 4: This Resolution shall take effect on June 1, 2008.

Adopted: May 19, 2008

Approved: May 19, 2008

JAMES B. FAIRCHILD, MAYOR

ATTEST:

JERRY WYATT, CITY MANAGER

EXHIBIT “A”

DALLAS AQUATIC CENTER RATES

1) **General Admission Day Use Pass**

	<u>Resident</u>	<u>Non-Resident</u>
Adult (18-59)	\$4.50	\$6.00
Youth (under 18)	\$3.00	\$4.00
Senior (60 & over)	\$3.50	\$5.00
Family*	\$10.00	\$15.00

2) **Youth summer only Pass (June-August)**

	<u>Resident</u>	<u>Non-Resident</u>
Youth (18 & under)	\$75.00	\$100.00

3) **3-month Water Aerobics Pass (unlimited use)**

	<u>Resident</u>	<u>Non-Resident</u>
All ages	\$75.00	\$100.00

4) **Annual Membership**

(Includes all lap swims, recreation swims, and unlimited water aerobics, as well as a twenty percent discount all classes and lessons, a ten percent discount on room and facility rentals and swimsuits, five free passes per year for friends and family, and discounts on special events)

	<u>Resident</u>	<u>Non-Resident</u>
Adult (18-59)	\$225.00	\$300.00
Youth (under 18)	\$175.00	\$240.00
Senior (60 & over)	\$175.00	\$240.00
Two-person	\$350.00	\$425.00
Family*	\$400.00	\$550.00

*"Family" means up to four persons related by blood, marriage, or other legally recognized arrangement, who reside together in the same household. For annual passes, add \$60.00 for each additional family member.

5) **20 coupons (non-expiring)**

	<u>Resident</u>	<u>Non-Resident</u>
Adult (18-59)	\$81.00	\$108.00
Youth (under 18)	\$54.00	\$72.00
Senior (60 & over)	\$63.00	\$90.00

6) **Facility rental rates**

Small room \$30.00/hour

Large Room \$60.00/hour

Entire facility (includes both rooms, all pools, lifeguards, and one lead lifeguard for one hour)

<u>Number of Guests</u>	<u>Rate**</u>
1-40	\$200.00
41-80	\$250.00
81-120	\$300.00
121-160	\$350.00
161-200	\$400.00
201-240	\$450.00

**Add \$75.00 for each additional hour.

ORDINANCE NO. 1686

An Ordinance repealing Sections 4.000 through 4.298 of the Dallas City Code, relating to Public Sewers, Private Sewage Disposal, Building Sewers and Connections, and Pretreatment; and adopting new provisions in lieu thereof.

THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:

Section 1. That Sections 4.000 through 4.298 of the Dallas City Code, relating to Public Sewers, Private Sewage Disposal, Building Sewers and Connections, and Pretreatment, be, and they hereby are, repealed.

Section 2. That the following Sections, as more fully set forth in Exhibit A, attached hereto and by reference incorporated herein, be adopted and made a part of the Dallas City Code in lieu of the Sections repealed in Section 1, above:

Section 4.000 - Definitions

Sections 4.025 through 4.042 - Use of Public Sewers

Sections 4.050 through 4.062 - Private Sewage Disposal

Sections 4.100 through 4.118 - Building Sewers and Connections

Sections 4.150 through 4.298 - Pretreatment

Read for the first time: May 19, 2008

Read for the second time: June 2, 2008

Adopted by the City Council: June 2, 2008

Approved by the Mayor: June 2, 2008

JAMES B. FAIRCHILD, MAYOR

ATTEST:

JERRY WYATT, CITY MANAGER

CHAPTER 4: UTILITIES

DEFINITIONS

4.000 Definitions.

For purposes of sections 4.000 to 4.116, the following mean:

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

Building sanitary sewer. The extension from the building drain to the public sanitary sewer or other place of disposal.

Director. The director of community development or his authorized designee.

Garbage. Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

Industrial wastes. The liquid wastes from industrial manufacturing processes, trade, or business, as distinct from sanitary sewage.

Natural outlet. An outlet into a watercourse, ditch, pond, lake, or other body of surface or groundwater.

Public sanitary sewer. A sewer in which all owners of abutting properties have equal rights and is controlled by public authority.

Residential user. All single-family dwelling units or multiple-family dwelling units where water service is supplied to each unit through individual water meters.

Sanitary sewer. A sewer that carries sewage and industrial wastes to which storm, surface, and groundwaters are not intentionally admitted.

Sewage. Human excrement and gray water (wastewater from household showers, dish-washing and domestic laundry operations, etc.)

Sewer. A pipe or conduit for carrying sewage.

Storm drain or storm sewer. A sewer that carries stormwater, and excludes sewage and industrial wastes, other than unpolluted cooling water.

Stormwater. Rainwater runoff, snowmelt runoff, and surface runoff and drainage.

Watercourse. A channel in which a flow of water occurs, either continuously or intermittently.

[Section 4.000 amended by Ordinance No. 1501(1), passed May 16, 1994. Section 4.000 amended by Ordinance No. 1559, passed May 4, 1998.]

USE OF PUBLIC SEWERS

4.025 Unlawful Disposal.

No person shall place, deposit, or permit to be deposited in an unsanitary manner on public or private property within the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage, or other objectionable waste.

4.030 Unlawful Discharge.

No person shall discharge to a natural outlet within the city, or in any area under the jurisdiction of the city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of sections 4.000 to 4.116.

4.040 Installation Required.

The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes are required at their expense to install suitable toilet facilities therein, and to connect such facilities directly with the public sanitary sewer in accordance with the provisions of sections 4.000 to 4.040 except that such facilities which, on February 18, 1997, are connected to a lawfully existing private disposal system may continue to use the private sewage disposal system until given 90 days advance written notice from the city that they must connect such facilities to the public sanitary sewer.

[Section 4.040 amended by Ordinance No. 1540, passed February 18, 1997.]

4.042 Penalty.

Violation of sections 4.025 to 4.040 is a civil infraction.

PRIVATE SEWAGE DISPOSAL

4.050 Private Sewage Disposal System.

No person shall construct, use or maintain a privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except that on site private sewage disposal systems lawfully in existence and in use on February 18, 1997, may continue to be used, provided they are properly maintained, until the owner of the property on which such on site disposal system is located is given 90 days advance written notice by the city that the property must be connected to the public sanitary sewer.

[Section 4.050 amended by Ordinance No. 1540, passed February 18, 1997.]

4.054 Compliance With State Law.

- (1) The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations and regulations of the Oregon Department of Environmental Quality.
- (2) Reserved.
- (3) No septic tank or cesspool shall be permitted to discharge to any natural outlet.

[Section 4.054 amended by Ordinance No. 1540, passed February 18, 1997.]

4.056 Abandonment of Private System.

Immediately upon the abandonment of a private sewage disposal system, the system shall be cleaned of sludge and filled with material approved by the director of public works.

4.058 Maintenance.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times at no expense to the city.

4.060 Additional Requirements.

No statement contained in sections 4.050 to 4.060 shall be construed to interfere with any additional requirements that may be imposed by Polk County or the state of Oregon.

4.062 Penalty

Violation of sections 4.050 to 4.060 is a civil infraction.

BUILDING SEWERS AND CONNECTIONS

4.100 Building Sanitary Sewers and Connections.

There shall be two classes of building sanitary sewer permits:

- (1) Residential and commercial service, and
- (2) Service to establishments producing industrial wastes.

4.102 Sanitary Sewer Installation and Connection.

(1) No person shall make a connection to a public sanitary sewer without first obtaining a permit from the director on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the director.

(2) All costs and expenses incident to the installation and connection of the building sanitary sewer shall be borne by the owner.

(3) The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sanitary sewer.

4.104 Separate Building Sanitary Sewer Required.

A separate and independent building sanitary sewer shall be provided for each lot.

4.106 Use of Existing Building Sanitary Sewers.

Old building sanitary sewers may be used in connection with new buildings only if they are found, on examination by the director, to meet all requirements of sections 4.000 to 4.116.

4.108 State Law Requirements.

All new construction shall comply with the plumbing code and specifications of the public works department.

4.110 Elevation of Building Sanitary Sewer.

When possible, the building sanitary sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which a building drain is too low to permit gravity flow to the public sanitary sewer, sanitary sewage carried by the building drain shall be lifted by an approved means and discharged to the building sanitary sewer.

4.112 Prohibited Connection.

No person shall connect roof downspouts, exterior foundation drains, areaway drains, or other sources of stormwater or groundwater to a building sanitary sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

4.114 Connection and Inspection.

The applicant for a building sanitary sewer permit shall notify the director when the building sanitary sewer is ready for inspection and connection to the public sanitary sewer. The connection shall be made under the supervision of the director or his representative.

4.116 Sanitary Sewer Connection Excavations.

All excavations for building sanitary sewer installation shall be adequately guarded with barricades and lights to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the director of public works.

[Sections 4.150 through 4.260 repealed and replaced by Ordinance No. 1503, passed October 17, 1994.]

4.118 Penalty

Violation of sections 4.100 to 4.116 is a civil infraction.

PRETREATMENT

4.150 Purpose and Policy.

Sections 4.150 to 4.298 set forth uniform requirements for indirect discharges of pollutants from nondomestic sources into the wastewater collection and treatment system for the city of Dallas and enables the city to comply with all applicable state and federal laws including the Clean Water Act (Act 33 U.S.C. 1251 et seq.), the General Pretreatment Regulations (40 CFR Part 403) and Oregon Administrative Rules (OAR) Chapter 340. The objectives of sections 4.150 to 4.298 are:

- (1) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system;
- (2) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
- (3) To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its beneficial use;
- (4) To protect both municipal personnel who may come in contact with sewage, sludge and effluent in the course of their employment as well as protecting the general public;
- (5) To preserve the hydraulic capacity and the organic treatment capacity of the municipal wastewater system;
- (6) To improve the opportunity to recycle and/or reclaim wastewater and sludge within and/or from the system;
- (7) To provide for a more equitable distribution of the cost of operation, maintenance and improvements of the municipal wastewater system; and
- (8) To ensure the city complies with its NPDES permit conditions, sludge use and disposal requirements and any other federal or state laws which the municipal wastewater system is subject to.

Sections 4.150 to 4.298 provide for the regulation of indirect discharge to the municipal wastewater collection system through the issuance of permits to certain nondomestic users and through enforcement of general requirements for other users, authorizes monitoring and enforcement activities, establishes administrative review procedures, requires user reporting, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

Sections 4.150 to 4.298 shall apply to the city of Dallas and to persons outside the city who, by contract or agreement with the city, are included as users of the municipal wastewater system. Except as otherwise provided herein, the director of the municipal wastewater system or his agent(s) shall administer, implement, and enforce the provisions of sections 4.150 to 4.298.

Sections 4.150 to 4.298 are gender neutral and the masculine gender shall include the feminine and vice versa. Shall is mandatory may is permissive or discretionary. 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.

[Section 4.150 added by Ordinance No. 1503, passed October 17, 1994.]

4.152 Administration.

Except as otherwise provided herein, the Director shall administer, implement, and enforce the provisions of sections 4.150 to 4.298. Any powers granted to or duties imposed upon the Director may be delegated by the Director to a duly authorized city employee.

[Section 4.152 added by Ordinance No. 1503, passed October 17, 1994.]

4.154 Definitions.

Unless the context specifically indicates otherwise, the following terms and phrases, as used in sections 4.150 to 4.298 shall have the meanings hereinafter designated:

- (1) Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.
- (2) Approval Authority. The Oregon Department of Environmental Quality (DEQ).
- (3) Authorized Representative of the Industrial User.
 1. If the industrial user is a corporation, authorized representative shall mean:
 - (a) The president, secretary, 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 operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures

2. If the industrial user is a partnership, association, or sole proprietorship, an authorized representative shall mean a general partner or the proprietor.

3. If the individual user is representing federal, state or local governments, or an agent thereof, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

4. The individuals described in paragraphs 1-3 above may designate another authorized representative if the authorization is in writing and specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or specifies the individual having overall responsibility for environmental matters for the company, and the authorization is submitted to the city.

(4) Biochemical Oxygen Demand (BOD5). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20 degrees centigrade usually expressed as concentration (milligrams per liter-mg/l).

(5) Best Management Practices or BMPs. Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 4.158. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(6) Building Sewer. A sewer line conveying wastewater from the premises of a user to the municipal collection system or the municipal wastewater treatment facility.

(7) Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. 1317) which applies to a specific category of industrial users and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471, incorporated herein by reference.

(8) Categorical Industrial User. An Industrial User subject to a categorical Pretreatment Standard or categorical Standard.

(9) Chemical Oxygen Demand or COD. A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water

- (10) City. The city of Dallas or the city council of Dallas, Oregon or the city's designee.
- (11) Color. The optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.
- (12) Composite Sample. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on either an increment of flow or time.
- (13) Control Authority. The phrase "Control Authority" shall refer to the city once the city has a pretreatment program approved by the Oregon Department of Environmental Quality in accordance with the provisions of 40 CFR 403.11.
- (14) Daily Maximum. The arithmetic average of all effluent samples for a pollutant collected during a calendar day.
- (15) Daily Maximum Limit. The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.
- (16) Department of Environmental Quality or DEQ. The Oregon Department of Environmental Quality or where appropriate, the term or acronym may also be used as a designation for the director of the department or other duly authorized official or agent of the department.
- (17) Director. Director of Public Works or the director's designee.
- (18) Discharge. The discharge or the introduction of pollutants into the municipal wastewater system from any nondomestic source regulated under section 307(b), (c) or (d), of the Act.
- (19) Domestic Sewage. Sewage.
- (20) Environmental Protection Agency or U.S. EPA. The U.S. Environmental Protection Agency or, where appropriate, the term or acronym may also be used as a designation for the Regional Water Management Division Director or other duly authorized official or agent of said agency.
- (21) Existing Source. Any source of discharge that is not a "New Source."
- (22) Grab Sample. A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

(23) Hauled Wastewater or Wastes. Any wastewater or waste transported to the POTW by truck. Hauled wastewater may include chemical toilet waste, septic tank waste, holding tank waste.

(24) Holding Tank Waste. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(25) Industrial User. Any person other than defined as a residential user which is a source of discharge.

(26) Industrial Wastewater. Nondomestic wastewater originating from a nonresidential source.

(27) Instantaneous Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(28) Interference. A discharge which, alone or in conjunction with a discharge or discharges from other sources both:

(a) Inhibits or disrupts the municipal wastewater system, its treatment processes or operations, or its sludge processes, use or disposal; and

(b) Therefore is a cause of a violation of any requirements of the city's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations: section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research, and Sanctuaries Act.

(29) Local Limits/Specific Pollutant Limitations. Specific discharge limits developed and enforced by the city upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b), which apply only to Significant Industrial Users.

(30) Manager. The city manager or the manager's designee.

(31) Medical Waste. Isolation wastes, infectious agents, human blood and blood by-products, pathological wastes, sharps, body parts, fomites, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

(32) Monthly Average. The sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

(33) Monthly Average Limit. The highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

(34) Municipal Wastewater System or System. A "treatment works" as defined in section 212 of the Act, (33 U.S.C.1292) which is owned by the state or the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes and any conveyances which convey wastewater to a treatment plant. The term also means the municipal entity having responsibility for the operation and maintenance of the system.

(35) National Pretreatment Standard. National pretreatment standard is defined in 40 CFR 403.3(l) as any regulation containing pollutant discharge limits promulgated by EPA under section 307(b) and (c) of the Clean Water Act applicable to industrial users, including the general and specific prohibitions found in 40 CFR 403.5.

(36) New Source.

(a) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

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

(ii) The building, structure, facility or installation completely replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs (a)(ii) or (a)(iii) of this section but otherwise alter, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has begun, or caused to begin as part of a continuous on-site construction program:

(i) Any placement, assembly, or installation of facilities or equipment; or

(ii) Significant site preparation work including clearing, excavation, or removal of existing buildings, structure, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(iii) Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

(37) Noncontact Cooling Water or Cooling Water. Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product. Cooling water may be generated from any use such as air conditioning, cooling, or refrigeration.

(38) Nondomestic Pollutants. Any substances other than human excrement and household gray water (wastewater from shower, dishwashing or domestic laundry operation, etc.). Nondomestic pollutants include the characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD5, COD, toxicity, odor, etc.).

(39) Nondomestic Source. Industrial user.

(40) Nondomestic User. Industrial user.

(41) Nondomestic Wastewater. Industrial wastewater.

(42) Nonresidential Source. Industrial user.

(43) Pass Through. A discharge which exits the municipal wastewater system or the sewage treatment plant (effluent) into waters of the U.S. in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit, including an increase in the magnitude or duration of a violation.

(44) Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all federal, state, or local governmental entities.

(45) pH. The logarithm (base 10) of the reciprocal of the hydrogen ion concentration expressed in moles per liter of a solution; or, a measure of the acidity or alkalinity of a solution, expressed in standard units (SUs).

(46) Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, industrial wastes, municipal wastes, agricultural wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and certain characteristics of wastewater in excess of specified state, federal or local standards or NPDES permit limits (e.g., pH, temperature, Total Suspended Solids (TSS), turbidity, color, BOD5, COD toxicity, odor, etc.).

(47) Pretreatment or Treatment. 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 discharging or otherwise introducing such pollutants into the municipal wastewater system. This reduction or alteration may be obtained by physical, chemical or biological processes, by process changes or by other means, except as prohibited by 40 CFR 403.6(d), pursuant to 40 CFR 403.3(s).

(48) Pretreatment Requirement. Any substantive or procedural requirement related to pretreatment, other than national pretreatment standards, imposed on an industrial user.

(49) Pretreatment Standard or Standard. Prohibited discharge standard, categorical discharge standards and local limits.

(50) Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain types or characteristics of wastewater as established by EPA, DEQ and/or the city or this ordinance.

(51) Publicly Owned Treatment Works (POTW). Municipal Wastewater System.

(52) Residential Users. Persons contributing only domestic sewage to the municipal wastewater system.

(53) Receiving Streams or Waters of the State. All streams, lakes, ponds, marshes, watercourses, waterways, well, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state of Oregon or any portion thereof.

(54) Septic Tank Waste. Any wastes originating from septic tanks used for domestic waste disposal.

(55) Sewage. Human excrement and gray water (wastewater from household showers, dish-washing and domestic laundry operations, etc.)

(56) Sewage Treatment Plant (STP). Treatment Plant.

(57) Sewer. The municipal wastewater collection or conveyance system, or any portion thereof, such as any pipe, conduit or other device used to transport sewage and/or industrial wastewater to a sewage treatment plant.

(58) Significant Industrial User.

(a) Except as provided in paragraph b below, the term significant user shall mean industrial users subject to categorical pretreatment standards; or any other industrial user that:

(i) Discharges an average of 25,000 gallons per day (gpd) or more of process wastewater; (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

(ii) Contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the sewage treatment plant; or

(iii) Is designated as significant by the Director on the basis that the industrial user has a potential to adversely affect the POTW's operation or for violating any pretreatment standards or requirement.

(b) Upon a finding that an industrial user meeting the criteria in paragraph (a)(ii) or (a)(iii) of this section has no reasonable potential for adversely affecting the municipal wastewater system's operation or for violating any pretreatment standard or requirement, the Director may at any time, on the Director's own initiative or in response to a petition received from such industrial user, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

(c) The Director may determine that an Industrial User subject to categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met

(i) The Industrial User, prior to Director's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;

(ii) The Industrial User annually submits the certification statement required in Section 4.200(2), together with any additional information necessary to support the certification statement; and

(iii) The Industrial User never discharges any untreated concentrated wastewater.

(59) Slug Load or Slug Discharge. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, violate the prohibited discharge standards in Section 4.158, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

(60) State. State of Oregon.

(61) Storm Water. Any flow occurring during or following any form of natural precipitation and resulting therefrom, including snowmelt.

(62) Suspended Solids or Total Suspended Solids (TSS). The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

(63) Total Suspended Solids (TSS). See Suspended Solids.

(64) Toxic Pollutant. One of the pollutants or combination of those pollutants listed as toxic in regulations promulgated by the Environmental Protection Agency under the provision of section 307 (33 U.S.C. 1317) of the Act.

(65) Treatment Plant or Sewage Treatment Plant (STP). That portion of the municipal wastewater system designed to provide treatment of sewage and industrial waste.

(66) Treatment Plant Effluent. Any discharge from the municipal wastewater system into waters of the state.

(67) User. Any person who contributes, or causes or allows the contribution of sewage or industrial wastewater into the municipal wastewater system, including persons who contribute such wastes from mobile sources.

(68) Wastewater. The liquid and water-carried industrial wastes, or sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which is contributed to the municipal wastewater system.

(69) Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of municipal and industrial waste.

[Section 4.154 added by Ordinance No. 1503, passed October 17, 1994.]

4.156 Abbreviations.

The following abbreviations shall have the designated meanings:

BOD5 Biochemical Oxygen Demand

CFR Code of Federal Regulations

COD Chemical Oxygen Demand

DEQ Oregon Department of Environmental Quality

EPA U.S. Environmental Protection Agency

gpd Gallons Per Day

LC50 Lethal Concentration for Fifty Percent (50%) of the Test Organisms

l Liter

mg Milligrams

mg/l Milligrams per liter

NPDES National Pollutant Discharge Elimination System

O&M Operation and Maintenance

POTW Publicly Owned Treatment Works

RCRA Resource Conservation and Recovery Act
SIC Standard Industrial Classification
SIU Significant Industrial User
SNC Significant Noncompliance
SWDA Solid Waste Disposal Act (42 U.S.C. 6901, *et seq.*)
TSS Total Suspended Solids
USC United States Code

[Section 4.156 added by Ordinance No. 1503, passed October 17, 1994.]

4.158 Prohibited Discharge Standards.

(1) No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will cause interference or pass through. These general prohibitions apply to all users of the municipal wastewater system whether or not the user is subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements.

(2) No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the municipal wastewater system. Included in this prohibition are wastestreams with a closed cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods prescribed in 40 CFR 261.21.

(b) Solid or viscous substances in amounts which will cause obstruction of the flow in a sewer or POTW resulting in interference.

(c) Any solid or viscous substances including but not limited to oils or greases on permit, petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through, or which interfere with flow in any portion of the municipal wastewater collection or treatment conveyance system.

(d) Any wastewater having a pH less than 5.5 or more than 10.0, or which may otherwise cause corrosive structural damage to the sewerage collection system or STP equipment, or pose potential or actual safety hazards to city personnel, or endanger public health or the environment. The Director may authorize pH limits outside the above specified range in permits for specific industrial dischargers in order to accommodate pH fluctuations inherent in certain pH control devices and processes. Wastewater with a pH of less than 5.0 is prohibited at any time.

(e) Any wastewater containing pollutants in sufficient quantity (flow or concentration), either singly or by interaction with other pollutants, that pass through or interfere with the municipal wastewater system, any wastewater treatment or sludge process, or constitute a hazard to public health, animals or the environment.

(f) Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, which result in toxic gases, vapors or fumes, or are otherwise sufficient to create a public nuisance or hazard to life, or are sufficient to prevent entry into the sewers for maintenance and repair.

(g) Any substance which may cause the treatment plant effluent or any other residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the system cause the city to be in noncompliance with sludge use or disposal regulations or permits issued under section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or other state requirements applicable to the sludge use and disposal practices being used by the city.

(h) Any wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plants effluent thereby violating the city's 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 to be more than 10 percent from the seasonably established norm for aquatic life.

(i) Any wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C).

(j) Any wastewater containing any radioactive waste or isotopes except as specifically approved by the city in compliance with applicable state or federal regulations.

(k) Any pollutants which result in the presence of toxic gases, vapor or fumes within the system in a quantity that may cause worker health and safety problems.

(l) Any trucked or hauled pollutants, except at discharge points designated by the city in accordance with section 4.184.

(m) Storm water, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, de-ionized water, cooling water and unpolluted industrial wastewater, unless specifically authorized by the city.

(n) Any sludges, screenings, or other residues from the pretreatment of industrial wastes.

(o) Any medical wastes, except as specifically authorized by the city in a wastewater permit.

(p) Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.

(q) Any material identified as hazardous waste according to 40 CFR Part 261 except as specifically authorized by the city.

(r) Any wastewater causing the treatment plant effluent to demonstrate toxicity to test species during a biomonitoring evaluation.

(s) Recognizable portions of the human or animal anatomy.

(t) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.

(u) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through;

(v) 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;

(w) Any material that creates an explosion hazard at any point in the POTW.

(3) Wastes prohibited by this section shall not be processed or stored in such a manner that these wastes could be discharged to the municipal wastewater system.

[Section 4.158 added by Ordinance No. 1503, passed October 17, 1994; Amended by Ordinance No. 1582, passed December 6, 1999.]

4.160 National Categorical Pretreatment Standards.

(1) Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR chapter 1, subchapter N, Parts 405-471 and incorporated herein by reference.

[Section 4.160 added by Ordinance No. 1503, passed October 17, 1994.]

(2) Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Director may impose equivalent concentration or mass limits in accordance with Section 4.160(5) and 4.160(6).

(3) When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Director may convert the limits to equivalent limitations expressed either as mass of pollutant

discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.

- (4) When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the Director shall impose an alternate limit in accordance with 40 CFR 403.6(e).
- (5) When a categorical Pretreatment Standard is expressed only in terms of pollutant concentrations, an Industrial User may request that the city convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Director. The city may establish equivalent mass limits only if the Industrial User meets all the conditions set forth in Sections (a)(i) through (a)(v) below.
 - (a) To be eligible for equivalent mass limits, the Industrial User must:
 - (i) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit;
 - (ii) Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;
 - (iii) Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;
 - (iv) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and
 - (v) Have consistently complied with all applicable categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.
 - (b) An Industrial User subject to equivalent mass limits must:
 - (i) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
 - (ii) Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
 - (iii) Continue to record the facility's production rates and notify the Director whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in paragraph (5)(a)(iii) of this Section. Upon notification of a revised production rate, the Director will reassess the equivalent mass limit and

revise the limit as necessary to reflect changed conditions at the facility; and

- (iv) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraphs (5)(a)(i) of this Section so long as it discharges under an equivalent mass limit.

(c) When developing equivalent mass limits, the Director:

- (i) Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based Daily Maximum and Monthly Average Standard for the applicable categorical Pretreatment Standard and the appropriate unit conversion factor;
- (ii) Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and
- (iii) May retain the same equivalent mass limit in subsequent individual wastewater discharger permit terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to Section 4.170. The Industrial User must also be in compliance with Section 4.294 regarding the prohibition of bypass.]

- (6) The Director may convert the mass limits of the categorical Pretreatment Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. The conversion is at the discretion of the Director.
- (7) Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this Section (4.160) in lieu of the promulgated categorical Standards from which the equivalent limitations were derived.
- (8) Many categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.

- (9) Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the Director within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the Director of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate.

4.162 State Pretreatment Standards.

Users are required to comply with applicable state pretreatment standards and requirements set out in OAR Chapter 340. These standards and requirements are incorporated herein by reference.

[Section 4.162 added by Ordinance No. 1503, passed October 17, 1994.]

4.164 Specific Pollutant Limitations (Local Limits)/Permit Required.

(1) No nonresidential user shall discharge wastewater containing restricted substances into the municipal wastewater system in excess of limitations specified in its wastewater discharge permit, or adopted, by resolution, by the city. The city shall publish and revise from time to time standards (Local Limits) for specific restricted substances. These standards shall be developed in accordance with 40 CFR Part 403.5 and shall implement the objectives presented in section 4.150. Standards published in accordance with this section will be deemed pretreatment standards for the purposes of section 307(d) of the Act.

(2) At his discretion, the Director may impose mass limitations in addition to or in place of concentration based limitations. The Director may also revise or modify the standards (Local Limits) as required, or if deemed necessary to comply with the objectives presented in section 4.150 or the general and specific prohibitions in section 4.158, or to insure compliance with state, federal and local law.

[Section 4.164 added by Ordinance No. 1503, passed October 17, 1994.]

(3) The city may adopt by resolution Best Management Practices (BMPs) to implement Local Limits and/or the requirements of Section 4.158. Best Management Practices may be developed for certain industrial or commercial activities, and when

adopted by resolution by the city, are required to be implemented by all applicable industrial users.

4.166 City's Right to Revision.

The city reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent limitations or requirements on discharges to the municipal wastewater system if deemed necessary to comply with the objectives presented in section 4.150 or the general and specific prohibitions in section 4.158.

[Section 4.166 added by Ordinance No. 1503, passed October 17, 1994.]

4.168 Special Agreement.

The city reserves the right to enter into special agreements with users setting out special terms under which the industrial user may discharge to the system. In no case will a special agreement waive compliance with a pretreatment standard.

[Section 4.168 added by Ordinance No. 1503, passed October 17, 1994.]

4.170 Dilution.

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation (unless expressly authorized by an applicable pretreatment standard or requirement) or any other pollutant-specific limitation developed by the city.

[Section 4.170 added by Ordinance No. 1503, passed October 17, 1994.]

4.172 Deadline for Compliance with Categorical Standards.

(1) Compliance by existing sources with categorical pretreatment standards shall be within three (3) years of the date the standard is effective unless a shorter compliance time is specified in the appropriate subpart of 40 CFR Chapter 1, subchapter N.

(2) New sources shall install and have in operating condition, and shall startup all pollution control equipment required to meet applicable pretreatment standards before

beginning to discharge. Within the shortest feasible time (not to exceed 90 days), new sources must meet all applicable pretreatment standards.

[Section 4.172 added by Ordinance No. 1503, passed October 17, 1994.]

4.174 Pretreatment Facilities.

Industrial users shall provide necessary wastewater treatment as required to comply with the requirements of sections 4.150 to 4.298 and shall achieve compliance with all categorical pretreatment standards, Local Limits and the prohibitions set out in section 4.158 through section 4.172 above, within the time limitations specified by the Director. Any facilities required to pretreat wastewater to a level acceptable to the Director shall be provided, operated, and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Director for review, and shall be acceptable to the Director before pretreatment facility construction begins. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Director under the provisions of sections 4.150 to 4.298.

[Section 4.174 added by Ordinance No. 1503, passed October 17, 1994.]

4.176 Additional Pretreatment Measures.

(1) Whenever deemed necessary, the Director may require industrial users to restrict the industrial user's discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the municipal wastewater treatment and collection system and/or to determine the industrial user's compliance with the requirements of sections 4.150 to 4.298.

(2) Each person discharging into the municipal wastewater system 100,000 gallons per day or more, or greater than five percent (5%) of the average daily flow in the system, may be required by the Director to install and maintain, on his property and at his expense, a suitable storage and low control facility to insure equalization of flow over a twenty-four (24) hour period. The facility shall have a capacity for at least fifty percent (50%) of the daily discharge volume and shall be equipped with alarms and a rate of discharge controller, the regulation of which shall be directed by the Director. A wastewater permit may be issued solely for flow equalization.

(3) Grease, oil and sand interceptors shall be provided, when, in the opinion of the Director, they are necessary for the proper handling of industrial wastewater containing excessive amounts of grease and oil, flammable substances, sand, or other potentially

harmful substances. All interception units shall be of a type and capacity approved by the Director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the owner, at his expense.

(4) Industrial users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

[Section 4.176 added by Ordinance No. 1503, passed October 17, 1994.]

4.178 Accidental Discharge/Slug Discharge Control Plans

(1) The Director shall evaluate whether each significant industrial user needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The Director may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges.

(2) An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

(a) Description of discharge practices, including nonroutine batch discharges;

(b) Description of stored chemicals;

(c) Procedures for immediately notifying the Director of any accidental or slug discharge, as required by Section 4.230; and

(d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

4.180 Tenant Responsibility.

Any person who shall occupy the industrial user's or owner's premises as a tenant under any rental or lease agreement shall be jointly and severally responsible for compliance with the provisions of sections 4.150 to 4.298 in the same manner as the owner.

[Section 4.180 added by Ordinance No. 1503, passed October 17, 1994.]

4.182 Separation of Domestic and Industrial Wastestreams.

All new wastestreams and domestic wastewaters from rest rooms, shower, drinking fountains, etc. unless specifically included as part of a categorical pretreatment standard, shall be kept separate from all industrial wastewaters until the industrial wastewaters have passed through a required pretreatment system and the industrial user's monitoring facility. When directed to do so by the Director, industrial users must separate existing domestic wastestreams.

[Section 4.182 added by Ordinance No. 1503, passed October 17, 1994.]

4.184 Hauled Wastewater.

(1) Hauled wastewater will be accepted into the municipal wastewater system at a designated receiving structure within the treatment plant area, at such times as are established by the Director, provided such wastes do not violate sections 4.158 through 4.172 or any other requirement established by the Director. Permits for individual vehicles to use such facilities shall be issued by the Director.

(2) All waste haulers, regardless of the origin of the hauled wastes, shall be considered "industrial users" for the purposes of sections 4.150 to 4.298.

(3) The discharge of any wastes other than Hauled Wastewater as defined in Section 4.158 requires prior approval and a wastewater discharge permit from the city. The city shall have authority to prohibit the disposal of such wastes, if such disposal would interfere with the treatment plant operation.

(4) The Director may collect samples of each hauled load to ensure compliance with applicable Standards. The Director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(5) Waste haulers must provide a waste tracking form for every load. This form shall include, at a minimum, the name and address of the waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of waste, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes. Hauled wastes are accepted at the discretion of the Director.

Fees for the discharge of septage will be established as part of the user fee system as authorized in section 4.296 through section 4.298.

[Section 4.184 added by Ordinance No. 1503, passed October 17, 1994.]

4.188 Vandalism.

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or other part of the municipal wastewater system. Any person found in violation of this requirement shall be subject to the sanctions specified in section 4.276 through section 4.282 below.

[Section 4.188 added by Ordinance No. 1503, passed October 17, 1994.]

4.189 Wastewater Survey.

When requested by the Director, all industrial users must submit information on the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing their discharge. The Director is authorized to prepare a form for this purpose and may periodically require industrial users to update the survey. Failure to complete this survey shall be reasonable grounds for terminating service to the industrial user and shall be considered a violation of sections 4.150 to 4.298.

[Section 4.189 added by Ordinance No. 1503, passed October 17, 1994.]

4.190 Wastewater Discharge Permit Requirement.

(1) It shall be unlawful for significant industrial users (SIUs) to discharge wastewater into the city's sanitary sewer system without first obtaining a wastewater discharge permit from the city, except that an SIU that has filed a timely application pursuant to section 4.192 may continue to discharge for the time period specified therein. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of sections 4.150 to 4.298 and subject the industrial user to the sanctions specified in sections 4.258-4.291. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to obtain other permits, or to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state or local law.

(2) The city may require other industrial users, including liquid waste haulers, to obtain wastewater discharge permits as necessary to carry out the purposes of sections 4.150 to 4.298.

[Section 4.190 added by Ordinance No. 1503, passed October 17, 1994.]

4.192 Permitting Existing Connections.

Any significant industrial user which discharges industrial waste into the municipal wastewater system prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply

to the city for a wastewater permit in accordance with section 4.198 below, and shall not cause or allow discharges to the system to continue after one hundred eighty (180) days of the effective date of this ordinance except in accordance with a permit issued by the city or as established by the city council.

[Section 4.192 added by Ordinance No. 1503, passed October 17, 1994.]

4.194 Permitting New Connections.

Any significant industrial user proposing to begin or recommence discharging industrial wastes into the municipal wastewater system must obtain a wastewater permit prior to beginning or recommencing such discharge. In accordance with section 4.198 below, an application for this permit must be filed at least ninety (90) days prior to the anticipated startup date, or the current permit expiration date.

[Section 4.194 added by Ordinance No. 1503, passed October 17, 1994.]

4.198 Wastewater Discharge Permit Application Contents.

In order to be considered for a wastewater discharge permit, all industrial users required to have a permit must submit the following information on an application form approved by the Director:

- (1) Name, mailing address, and location (if different from the mailing address), including the name of the operator and owner;
- (2) Contact information, description of activities, facilities, and plant production processes on the premises;
- (3) Environmental control permits held by or for the facility;
- (4) Standard Industrial Classification (SIC) codes for the industry as a whole and for any processes for which categorical pretreatment standards have been promulgated;
- (5) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used at the facility which are or could accidentally or intentionally be discharged to the municipal system. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes;
- (6) Number and type of employees, hours of operation, and proposed or actual hours of operation of any pretreatment systems;
- (7) Each product by type, amount, process or processes and rate of production;
- (8) Type and amount of raw materials processed (average and maximum per day);

- (9) Site plans, floor plans and mechanical and plumbing plans and details to show all sewers, floor drains, and appurtenances by size, location and elevation, and all points of discharge;
- (10) Time and duration of each discharge;
- (11) The location for monitoring all wastes covered by the permit;
- (12) Measured average daily flow and maximum daily flow, in gallons per day, to the municipal system from regulated process streams and other streams as necessary to use the combined wastestream formula in 40 CFR 403.6(e);
- (13) Daily maximum, daily average, and monthly average wastewater flow rates, including daily, monthly and seasonable variations, if any;
- (14) Wastewater constituents and characteristics, including any pollutants in the discharge which are limited by federal, state, or local standards, and pretreatment standards applicable to each regulated process; and nature and concentration (or mass if pretreatment standard requires) of regulated pollutant in each regulated process (daily maximum and average concentration or mass when required by a pretreatment standard). Samples shall be representative of daily operations and shall be collected and analyzed in accordance with procedures specified in 40 CFR Part 136;
- (15) The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources;
- (16) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Director, of regulated pollutants in the discharge from each regulated process;
- (17) Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported;
- (18) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 4.220. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Director or the applicable Standards to determine compliance with the Standard;
- (19) Sampling must be performed in accordance with procedures set out in Section 4.250;
- (20) A statement reviewed by an authorized representative of the user and certified to by a qualified professional indicating whether or not the pretreatment standards are being met on a consistent basis, and if not, what additional O&M and/or pretreatment is necessary to meet pretreatment standards and requirements;
- (21) If additional pretreatment and/or O&M will be required to meet the standards, then the industrial user shall indicate the shortest time schedule necessary to

accomplish installation or adoption of such additional treatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

- (22) The following conditions apply to this schedule:
- (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, beginning operation, and conducting routine operation). No increment shall exceed nine (9) months, nor shall the total compliance period exceed thirty-six (36) months;
 - (b) No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Director including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the Director;
- (23) Submit a spill prevention plan as defined in section 4.178.
- (24) Any other information as may be deemed by the Director to be necessary to evaluate the permit application.
- (25) Incomplete or inaccurate applications will not be processed and will be returned to the industrial user for revision.

[Section 4.198 added by Ordinance No. 1503, passed October 17, 1994.]

4.200 Application Signatories and Certification.

- (1) All permit applications and industrial user reports must contain the following certification statement and be signed by an authorized representative of the industrial user:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false

information, including the possibility of fine and imprisonment for knowing violations."

[Section 4.200 added by Ordinance No. 1503, passed October 17, 1994.]

If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Director prior to or together with any reports to be signed by an Authorized Representative.

- (2) Annual Certification for Non-Significant Categorical Industrial Users. A facility determined to be a Non-Significant Categorical Industrial User by the Director pursuant to 4.154(58)(c) must annually submit the following certification statement signed in accordance with the signatory requirements in 1.4 C. This certification must accompany an alternative report required by the Director:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR _____, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year]:

(a) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in 4.154(58)(c);

(b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and

(c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information.

4.202 Wastewater Discharge Permit Decisions.

(1) The Director will evaluate the data furnished by the industrial user and may require additional information. Within sixty (60) days of receipt of a complete permit application, the Director will determine whether or not to issue a wastewater discharge permit. If no determination is made within this time period, the application will be deemed denied.

(2) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in sections 4.158 - 4.172, and which in the judgment of the Director, may have a deleterious effect upon the municipal treatment system, processes, equipment, or receiving water, or which otherwise create a hazard to life or constitute a public nuisance, the Director may take any of the following actions:

- (a) Reject the wastes;
- (b) Require pretreatment to an acceptable level for discharge to the public sewers;
- (c) Require control over the quantities and rates of discharge; and/or
- (d) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provision of sections 4.296-4.298 of this art

[Section 4.202 added by Ordinance No. 1503, passed October 17, 1994.]

4.204 Wastewater Discharge Permit Duration.

Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than five (5) years, at the discretion of the Director. Each permit will indicate a specific date upon which it will expire.

[Section 4.204 added by Ordinance No. 1503, passed October 17, 1994.]

4.206 Wastewater Discharge Permit Contents.

(1) Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the Director to prevent pass through or interference and to implement the objectives of sections 4.150 to 4.298.

(2) Wastewater Discharge Permits must contain the following conditions:

- (a) A statement that indicates permit issuance date, expiration date, effective date, and permit duration, which in no event shall exceed 5 years.

(b) A statement that the permit is nontransferable without prior notification to and approval from the Director and provisions for furnishing the new owner or operator with a copy of the existing permit.

(c) Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards.

(d) Self monitoring, sampling, reporting, notification and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, sample type based on federal, state and local law, and requirements for submission of periodic self-monitoring or special notification reports.

(e) A statement of applicable penalties for violation of pretreatment standards and requirements, and applicable compliance schedules. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

(f) Requirements to control Slug Discharge, if determined by the Director to be necessary.

(g) Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within thirty (30) days where self-monitoring indicates (a) violation(s).

(h) Requirements for immediate notification of excessive, accidental, or slug discharges, or any discharge which could cause any problems to the municipal wastewater system.

(3) Permits may contain, but need not be limited to, the following conditions:

(a) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.

(b) Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.

(c) Requirements for the installation of pretreatment technology, pollution control equipment or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.

(d) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges.

(e) Requirements for the development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.

(f) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the municipal wastewater system.

(g) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices

(h) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.

(i) Compliance schedules for meeting pretreatment standards and requirements.

(j) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified in section 4.244 and affording the Director, or the Director's representatives, access thereto for review and/or copying.

(k) Requirements for prior notification and approval by the Director of any new introduction of wastewater pollutants or of any change in the volume or character of the wastewater prior to introduction in the system.

(l) Requirements for the prior notification and approval by the Director of any change in the manufacturing and/or pretreatment process used by the permittee.

(m) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the permit.

(n) Other conditions as deemed appropriate by the Director to ensure compliance with sections 4.150 to 4.298 , and state and federal laws, rules, and regulations.

[Section 4.206 added by Ordinance No. 1503, passed October 17, 1994.]

4.208 Wastewater Discharge Permit Appeals.

Any person including the industrial user may petition the Director to reconsider the terms of a permit within ten (10) days of the issuance of the final permit.

(1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(2) In its petition, the appealing party must indicate the permit provisions objected to, the reasons for this objection, and the alternative conditions, if any, it seeks to place in the permit.

(3) The effectiveness of the permit shall not be stayed pending the appeal.

(4) If the Director fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a permit, not to issue a permit, or not to modify a permit shall be considered final administrative action for purposes of judicial review.

(5) Aggrieved parties seeking judicial review of the final administrative permit decision must do so by filing a complaint with the circuit court for Polk County.

[Section 4.208 added by Ordinance No. 1503, passed October 17, 1994.]

4.210 Wastewater Discharge Permit Modifications.

The Director may modify a permit for good cause including, but not limited to, the following:

(1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(2) To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of permit issuance;

(3) A change in the municipal wastewater system that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(4) Information indicating that the permitted discharge poses a threat to the city's municipal wastewater system, city personnel, or the receiving waters;

(5) Violation of any terms or conditions of the wastewater permit;

(6) Misrepresentations or failure to fully disclose all relevant facts in the permit application or in any required reporting;

(7) To correct typographical or other errors in the permit, and/or

(8) To reflect a transfer of the facility ownership and/or operation to a new owner or operator.

(9) Revision of, or a grant of variance from, categorical pretreatment standards pursuant to 40 CFR 403.13.

The filing of a request by the permittee for a permit modification does not stay any permit condition.

[Section 4.210 added by Ordinance No. 1503, passed October 17, 1994.]

4.212 Wastewater Discharge Permit Transfer.

(1) Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator with prior approval of the Director if the permittee gives at least thirty (30) days advance notice to the Director. The notice must include a written certification by the new owner and/or operator which:

(a) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

(b) Identifies the specific date on which the transfer is to occur; and

(c) Acknowledges full responsibility for complying with the existing permit.

(2) Failure to provide advance notice of a transfer renders the wastewater permit void on the date of facility transfer.

[Section 4.212 added by Ordinance No. 1503, passed October 17, 1994.]

4.214 Wastewater Discharge Permit Revocation.

(1) Wastewater discharge permits may be revoked for good cause, including, but not limited to the following reasons:

(a) Failure to notify the Director of significant changes to the wastewater prior to the changed discharge;

(b) Failure to provide prior notification to the Director of changed conditions pursuant to section 4.228;

(c) Misrepresentation of, or failure to fully disclose all relevant facts in, the wastewater discharge permit application;

(d) Falsifying self-monitoring reports;

(e) Tampering with monitoring equipment;

(f) Refusing to allow the city timely access to the facility premises and records;

(g) Failure to meet effluent limitations;

(h) Failure to pay fines;

(i) Failure to pay sewer charges;

(j) Failure to meet compliance schedules;

(k) Failure to complete a wastewater survey or wastewater discharge permit application;

(l) Failure to provide advance notice of the transfer of a permitted facility;
and/or

(m) Violation of any pretreatment standard or requirement or any terms of a wastewater discharge permit or sections 4.150 to 4.298.

(2) Permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

[Section 4.214 added by Ordinance No. 1503, passed October 17, 1994.]

4.216 Wastewater Discharge Permit Reissuance.

A significant industrial user shall apply for permit reissuance by submitting a complete permit application in accordance with section 4.198 a minimum of ninety (90) days prior to the expiration of the user's existing permit.

[Section 4.216 added by Ordinance No. 1503, passed October 17, 1994.]

4.218 Regulation of Wastewater Received From Other Jurisdictions.

If another municipality, or user(s) located within another municipality of jurisdiction, contribute(s) wastewater to the municipal wastewater system, the city shall enter into an intermunicipal or interjurisdictional agreement with the contributing municipality or jurisdiction, or enter into a contract with the user(s), in accordance with requirements specified in the city's pretreatment procedures.

[Section 4.218 added by Ordinance No. 1503, passed October 17, 1994.]

4.220 Baseline Monitoring Reports.

(1) Within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing significant industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to the municipal system shall be required to submit to the Director a report which contains the information listed in paragraph 2, below. At least ninety (90) days prior to commencement of their discharge, new sources, including existing users which have changed their operation or processes so as to become new sources, and other sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the Director a report which contains the information listed in paragraph 2. A new source shall also be required to report the

method of pretreatment, or other method, it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

(2) The information required by this section includes:

(a) Identifying Information. The user shall submit the name and address of the facility including the name of the operator and owners;

(b) Permits. The user shall submit a list of any environmental control permits held by or for the facility;

(c) Description of Operations. The user shall submit a brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the municipal wastewater system from the regulated processes.

(d) Flow Measurement. The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the system from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

(e) Measurement of Pollutants.

(i) The industrial user shall identify the categorical pretreatment standards applicable to each regulated process;

(ii) In addition, unless otherwise specified by the Director in the permit, the industrial user shall submit the results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standards or the city of regulated pollutants in the discharge from each regulated process (wastewater survey). Instantaneous, daily maximum and long term average concentrations (or mass, where required) shall be reported. Samples shall be representative of daily operations and shall be collected and analyzed in accordance with procedures set out in 40 CFR Part 136.

(iii) A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. All other pollutants will be measured by composite samples obtained through flow proportional sampling techniques. If flow proportional composite sampling is not feasible, samples may be obtained through time proportional sampling techniques or through four (4) grab samples if the user proves such samples will be representative of the discharge.

(iv) The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.

(v) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined

wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;

- (vi) The Director may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
- (vii) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.

(f) Special Certification. A statement, reviewed by an authorized representative of the industrial user and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements; and

(g) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the industrial user will provide the shortest schedule by which the industrial user will provide such additional pretreatment and/or O&M is met. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section 4.198(14) .

(h) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with section 4.200.

[Section 4.220 added by Ordinance No. 1503, passed October 17, 1994.]

4.222 Compliance Schedule Progress Reports.

The following conditions shall apply to the compliance schedule required by section 4.220(2)(g) :

(1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(2) No increment referred to above shall exceed nine (9) months;

(3) The industrial user shall submit a progress report to the Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for the delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(4) In no event shall more than nine (9) months elapse between such progress reports to the Director.

[Section 4.222 added by Ordinance No. 1503, passed October 17, 1994.]

4.224 90-Day Compliance Reports.

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or, in the case of a new source, following commencement of the introduction of wastewater into the municipal wastewater system, any industrial user subject to such pretreatment standards and requirements shall submit to the Director a report containing the information described in section 4.220(2)(d-f) . For industrial users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 4.200 .

[Section 4.224 added by Ordinance No. 1503, passed October 17, 1994.]

4.226 Periodic Compliance Reports.

(1) Except as specified in 4.226(4), any significant industrial users shall, at a frequency determined by the Director but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by such pretreatment standards, and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the Director or the Pretreatment Standard necessary to determine the compliance status of the User. All periodic compliance reports must be signed and certified in accordance with section 4.200.

(2) All wastewater samples must be representative of the industrial user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, calibrated, kept clean, and maintained in good working order at all times. The

failure of an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that sample results are unrepresentative of Its discharge.

(3) In the event an industrial user's monitoring results indicate a violation has occurred, the industrial user must immediately (within 24 hours of becoming aware of the violation) notify the Director and resample its discharge. The industrial user must report the results of the repeated sampling within thirty (30) Days of discovering the first violation.

(4) The Director may reduce the requirement for periodic compliance reports to a requirement to report no less frequently than once a year, unless required more frequently in the Pretreatment Standard or by the Approval Authority, where the Industrial User's total categorical wastewater flow does not exceed any of the following:

- (a) 0.01 percent of the POTW's design dry-weather hydraulic capacity of the POTW, or five thousand (5,000) gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the Industrial User discharges in batches]
- (b) 0.01 percent of the design dry-weather organic treatment capacity of the POTW; and
- (c) 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical Pretreatment Standard for which approved Local Limits were developed in accordance with Section 4.164.

Reduced reporting is not available to Industrial Users that have in the last two (2) years been in Significant Noncompliance, as defined in Section 4.256. In addition, reduced reporting is not available to an Industrial User with daily flow rates, production levels, or pollutant levels that vary so significantly that, in the opinion of the Director, decreasing the reporting requirement for this Industrial User would result in data that are not representative of conditions occurring during the reporting period.

(4) All periodic compliance reports must be signed and certified in accordance with Section 4.200(1).

(5) All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.

(6) If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by

the Director, using the procedures prescribed in Section 4.250, the results of this monitoring shall be included in the report.

[Section 4.226 added by Ordinance No. 1503, passed October 17, 1994.]

4.228 Reports of Changed Conditions.

Each industrial user is required to notify the city of any planned significant changes to the industrial user's operations or pretreatment systems which might alter the nature, quality or volume of its wastewater, at least thirty (30) days prior to the change.

(1) The Director may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater permit application under section 4.198, if necessary.

(2) The Director may issue a wastewater permit under section 4.202 or modify an existing wastewater permit under section 4.210.

(3) No industrial user shall implement the planned changed condition(s) until and unless the Director has responded to the industrial user's notice.

(4) For purposes of this requirement, flow increases of twenty (20%) or greater, the discharge of any previously unreported pollutant, or a change in the listed or characteristic hazardous wastes for which the user has submitted initial notification under 40 CFR 403.12 (p), shall be deemed significant.

[Section 4.228 added by Ordinance No. 1503, passed October 17, 1994.]

4.230 Reports of Potential Problems.

Each industrial user shall provide protection from accidental and/or slug loads, or intentional discharges of prohibited materials or other substances regulated by sections 4.150 to 4.298. Facilities to prevent the discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Director for review and shall be approved by the Director before construction of the facility. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of sections 4.150 to 4.298.

(1) No industrial user which commences discharge to the municipal wastewater system after the effective date of this ordinance shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the Director.

(2) In the case of an accidental or other discharge which may cause potential problems for the municipal wastewater system, it is the responsibility of the user to

immediately telephone and notify the Director of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(3) Within five (5) days following an accidental discharge, the user shall, unless waived by the Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the municipal wastewater system, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed by sections 4.150 to 4.298 .

(4) Failure to notify the Director of potential problem discharges shall be deemed a separate violation of sections 4.150 to 4.298.

(5) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph 2, above. Employers shall ensure that all employees who may cause or suffer such a discharge to occur are advised of the emergency notification procedure.

(6) Significant Industrial Users are required to notify the Director immediately of any changes at its facility affecting the potential for a Slug Discharge.

[Section 4.230 added by Ordinance No. 1503, passed October 17, 1994.]

4.232 Reports from Unpermitted Industrial Users.

All industrial users not subject to categorical pretreatment standards and not required to obtain a wastewater discharge permit shall provide appropriate reports to the Director as the Director may require.

[Section 4.232 added by Ordinance No. 1503, passed October 17, 1994.]

4.234 Reporting of Additional Monitoring.

If an industrial user subject to the reporting requirements of 40 CFR 403.12 (e) or (h), which requires submission of periodic compliance reports, monitors any pollutant more frequently than required by the Director, using the procedures prescribed in 40 CFR Part 136, and the monitoring indicates a violation, the user must notify the Director within twenty-four (24) hours of becoming aware of the violation and the results of this monitoring shall be included in the report." Also, federal regulation 40 CFR 403.12(9) (5) requires all industrial users that are subject to federal categorical standards and monitor any pollutant more frequently than required by the Director using sampling and analytical methods in 40 CFR 136 to report the results of the monitoring.

[Section 4.234 added by Ordinance No. 1503, passed October 17, 1994.]

4.236 Notification of the Discharge of Hazardous Waste.

(1) No user shall discharge of hazardous waste without notification in writing and approval of the Director of any discharge into the municipal wastewater system of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge number, (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the municipal wastewater system, the notification shall also be in writing to the EPA Regional Waste Management Division Director, and DEQ Hazardous and Solid Waste Division Director and shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under section 4.228. The notification requirement in this section does not apply to pollutants already reported by industrial users subject to categorical pretreatment standards under the self-monitoring requirements of sections 4.220, 4.224, and 4.226.

(2) Dischargers are exempt from the requirements of paragraph (1) above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30 (d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more such quantities of hazardous waste do not require additional notification unless required by the Director.

(3) In the case of any new regulations under section 3001 of the RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Director, the EPA Regional Waste Management Division Director, and DEQ Solid and Hazardous Waste Division Director, of the discharge of such substance(s) within ninety (90) days of the effective date of such regulations.

(4) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(5) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by sections 4.150 to 4.298, a permit issued hereunder, or any applicable federal or state law.

[Section 4.236 added by Ordinance No. 1503, passed October 17, 1994.]

4.238 Notification of Significant Production Change.

An industrial user operating under a waste discharge permit incorporating equivalent mass or concentration limits calculated from a production based standard shall notify the Director within (2) business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the Director of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate.

[Section 4.238 added by Ordinance No. 1503, passed October 17, 1994.]

4.240 Timing.

Written reports will be deemed to have been transmitted at the time of deposit, postage prepaid, into a mail facility services of the United States Postal Services. For reports, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

[Section 4.240 added by Ordinance No. 1503, passed October 17, 1994.]

4.242 Record Keeping.

Industrial users subject to the reporting requirements of sections 4.150 to 4.298 shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by sections 4.150 to 4.298, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices established under Section 4.164(3) and all records and information required to be retained under 40 CFR 403.12(o). Records shall include the date, exact place, method, and time of sampling, and 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. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning compliance with sections 4.150 to 4.298, or where

the industrial user has been specifically notified of a longer retention period requirement by the city, DEQ or EPA.

[Section 4.242 added by Ordinance No. 1503, passed October 17, 1994.]

4.244 Right of Entry: Inspection and Sampling.

The city shall have the right to enter the facilities of any industrial user to determine whether the industrial user is complying with all requirements of sections 4.150 to 4.298, its wastewater permit or any order issued here under, if applicable. Industrial users shall allow the city or its representatives 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.

(1) Where an industrial user has security measures in force which require proper identification and clearance before entry into their premises, the industrial user shall make necessary arrangements with its security guards so that, upon presentation of suitable identifications, personnel from the city, the state, and U.S. EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(2) The city shall have the right to set up or require installation of, on the industrial user's property, such devices as are necessary to conduct sampling, and/or metering of the user's operations.

(3) The city may require the industrial user to install monitoring equipment, as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the industrial user at the industrial user's expense. All devices used to measure wastewater flow and quality shall be calibrated periodically to ensure their accuracy.

(4) Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and/or sampled shall be promptly removed by the industrial user at the written or verbal request of the city and shall not be replaced. The costs of clearing such access shall be borne by the industrial user.

(5) Unreasonable delays in allowing city personnel access to the industrial user's premises shall be a violation of sections 4.150 to 4.298 .

[Section 4.244 added by Ordinance No. 1503, passed October 17, 1994.]

4.246 Search Warrants.

If the city has been refused access to a building, structure or property, or any part thereof, and if the city has probable causes to believe that there may be a violation of sections 4.150 to 4.298, or that there is a need to perform an inspection and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with sections 4.150 to 4.298 or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the city, through the city's attorney, may seek issuance of a search warrant from the Dallas Municipal Court.

[Section 4.246 added by Ordinance No. 1503, passed October 17, 1994.]

4.248 Analytical Requirements.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Director or other parties approved by EPA.

[Section 4.248 added by Ordinance No. 1503, passed October 17, 1994.]

4.250 Sample Collection.

(1) Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(2) Except as indicated in Sections (3) and (4) below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director. Where time-proportional composite sampling or grab sampling is authorized by the Director, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other

parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Director, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

(3) For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 4.220 and 4.224 a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Director may authorize a lower minimum. For the reports required by paragraphs Section 4.226, the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

[Section 4.250 added by Ordinance No. 1503, passed October 17, 1994.]

4.252 Resampling Requirements for Self-Monitoring Violations.

If sampling performed by a User indicates a violation, the User must notify the Director within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within thirty (30) days after becoming aware of the violation. Resampling by the Industrial User is not required if the city performs sampling at the User's facility at least once a month, or if the city performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the city receives the results of this sampling, or if the city has performed the sampling and analysis in lieu of the Industrial User.

4.254 Confidential Information.

Information and data on an industrial user obtained from reports, questionnaires, permit applications, permits, and monitoring programs, and from city inspection and sampling activities shall be available to the public without restriction unless the industrial user specifically requests and is able to demonstrate to the satisfaction of the Director that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state laws.

(1) 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.

(2) When requested and demonstrated by the industrial user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available immediately upon request to governmental agencies for uses related to sections 4.150 to 4.298, the National Pollutant Discharge Elimination System (NPDES) program, and in enforcement proceedings involving the person furnishing the report.

[Section 4.254 added by Ordinance No. 1503, passed October 17, 1994.]

4.256 Publication of Users in Significant Noncompliance.

The city shall annually publish, in the largest daily newspaper circulated in the area where the municipal wastewater system is located, a list of the industrial users which, during the previous 12 months, were in significant noncompliance (SNC) with applicable pretreatment standards and requirements. The term Significant Noncompliance shall be applicable to Significant Industrial Users that meet the requirements of any paragraph (1) through (8) in this section (or to any other Industrial User that violates paragraphs (3), (4) or (8) of this Section):

(1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 4.154.

(2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 2 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH).

(3) Any other violation of a Pretreatment Standard or Requirement as defined by Section 4.154 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Director determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public.

- (4) Any discharge of pollutants that have caused imminent endangerment to the public or to the environment, or have resulted in the city's exercise of its emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide, within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; and/or
- (8) Any other violation(s) which may include a violation of Best Management Practices, which the Director determines will adversely affect the operation or implementation of the local pretreatment program, or for which the Director believes is (are) significant.

[Section 4.256 added by Ordinance No. 1503, passed October 17, 1994.]

4.258 Notification of Violation.

Whenever the city finds that any industrial user has violated or is violating sections 4.150 to 4.298, a wastewater permit or order issued hereunder, or any other pretreatment standard or requirement, the Director or the Director's agent may serve upon said user a written Notice of Violation. Within 10 days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the Director. 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. 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.

[Section 4.258 added by Ordinance No. 1503, passed October 17, 1994.]

4.260 Consent Orders.

The city is hereby empowered to enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any industrial user responsible for noncompliance. Such orders will include specific action to be taken by the industrial user to correct the noncompliance within a time period also specified by the order. Consent Orders shall have the same force and effect as administrative orders issued pursuant to sections 4.264 and 4.266 and shall be judicially enforceable.

[Section 4.260 added by Ordinance No. 1503, passed October 17, 1994.]

4.262 Show Cause Hearing.

The city may order any industrial user which causes or contributes to (a) violation(s) of sections 4.150 to 4.298, wastewater permits or orders issued hereunder, or any other pretreatment standard or requirement, to appear before the city and show cause why a proposed enforcement action should not be taken. Notice shall be served on the industrial user specifying the time and place for the meeting, 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 meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the industrial user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the industrial user.

[Section 4.262 added by Ordinance No. 1503, passed October 17, 1994.]

4.264 Compliance Orders.

When the Director finds that an industrial user has violated or continues to violate sections 4.150 to 4.298, permits or orders issued hereunder, or any other pretreatment standard or requirement, the Director may issue a Compliance Order to the industrial user responsible for the discharge directing that the industrial user come into compliance within a specified time. If the industrial user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including additional self monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. The Director may also continue to require such additional self-monitoring for at least ninety (90) days after consistent compliance has been achieved, after which time the self-monitoring conditions in the discharge permit shall control. A Compliance Order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a Compliance Order relieve the industrial user of liability for any violation, including any continuing violation. Issuance of a Compliance Order shall not be a bar against, or a prerequisite for, taking any other action against the industrial user.

[Section 4.264 added by Ordinance No. 1503, passed October 17, 1994.]

4.266 Cease and Desist Orders.

When the Director finds that an industrial user has violated or continues to violate sections 4.150 to 4.298, wastewater permits or order issued hereunder, or any other pretreatment standard or requirement, the Director may issue a Cease and Desist Order to the industrial user directing it to cease and desist all such violations and directing the industrial user to:

- (1) Immediately comply with all requirements; and
- (2) 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.
- (3) Issuance of a Cease and Desist Order shall not be a bar against, or a prerequisite for, taking any other action against the industrial user.

[Section 4.266 added by Ordinance No. 1503, passed October 17, 1994.]

4.268 Administrative Fines.

If the Director determines that a user has violated, or continues to violate sections 4.150 to 4.298, a wastewater permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may issue an administrative fine to said user. The City Council may, by resolution, adopt a schedule of graduated penalties based on the nature, length and frequency of noncompliance. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation. The Director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

- (1) Assessments may be added to the user's next scheduled sewer service charge and the city shall have such other collection remedies as may be available for other service charges and fees.
- (2) Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of twenty percent (20%) of the unpaid balance and interest shall accrue thereafter at a rate of nine percent (9%) per month. Any unpaid charges, fines and penalties, together with interest therefrom shall constitute a lien against the user's property.
- (3) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the industrial user.

[Section 4.268 added by Ordinance No. 1503, passed October 17, 1994.]

4.270 Emergency Suspensions.

The Director may immediately suspend an industrial user's discharge and the industrial user's wastewater discharge permit, after informal notice to the industrial user, whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Director may also immediately suspend an industrial user's discharge and the industrial user's wastewater discharge permit, after notice and opportunity to respond, that threatens to interfere with the operation of the municipal wastewater system, or which presents, or may present and endangerment to the environment.

(1) Any industrial user notified of a suspension of its discharge or wastewater discharge permit shall immediately stop or eliminate its contribution. In the event of an industrial user's failure to immediately comply voluntarily with the suspension order, the Director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the municipal wastewater system and/or the receiving stream, or endangerment to any individuals. The Director shall allow the industrial user to resume its discharge when the user has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless the termination proceedings set forth in section 4.272 are initiated against the user.

(2) An industrial 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 recurrence, to the Director prior to the date of any show cause or termination hearing under sections 4.262 and 4.272.

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

[Section 4.270 added by Ordinance No. 1503, passed October 17, 1994.]

4.272 Termination of Discharge and/or Wastewater Discharge Permit.

In addition to those provisions in section 4.214, any industrial user which violates the following conditions, wastewater discharge permits, or orders issued hereunder is subject to discharge and/or wastewater discharge permit termination:

- (1) Violation of wastewater discharge permit conditions;
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (3) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
- (4) Tampering with monitoring equipment;

(5) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; and/or

(6) Violation of the pretreatment standards and requirements in sections 4.158 to 4.172.

Noncompliant industrial users will be notified of the proposed termination of their discharge and/or wastewater discharge permit and be offered an opportunity to show cause, under section 4.262, as to why the proposed action should not be taken. Exercise of this option by the Director shall not be a bar to, or a prerequisite for, taking any other action against the user.

[Section 4.272 added by Ordinance No. 1503, passed October 17, 1994.]

4.276 Appeal of Decision of the City.

A decision of the city under sections 4.264, 4.266, 4.268, 4.270, or 4.272 to take enforcement action against an industrial user may be appealed to the Dallas Municipal Court by filing a written notice of appeal with the municipal court clerk and by serving the city attorney with a true copy thereof within 10 days of the date of the city's decision. The filing of a notice of appeal shall not stay the decision of the city.

[Section 4.276 added by Ordinance No. 1503, passed October 17, 1994.]

4.277 Injunctive Relief.

When the city finds that a user has violated, or continues to violate, any provision of sections 4.150 to 4.298 , a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the city, through the city's attorney, may petition the Dallas Municipal Court for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by sections 4.150 to 4.298 on activities of the user. The city may also seek such other action as may be 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.

[Section 4.277 added by Ordinance No. 1503, passed October 17, 1994.]

4.278 Civil Penalties.

Any industrial user which has violated or continues to violate any requirements of sections 4.150 to 4.298 , any order or permit issued hereunder, or any other pretreatment

standard or requirement shall be liable to the city for a maximum civil penalty of \$ 1,250 per violation per day to be determined and assessed by the Dallas Municipal Court. In the case of a monthly or other long term average discharge limit, penalties shall accrue for each day during the period of this violation. For continuing violations, each day that a violation exists or occurs shall be deemed a separate violation.

(1) The city may recover reasonable attorney's fee, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.

(2) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

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

[Section 4.278 added by Ordinance No. 1503, passed October 17, 1994.]

4.280 Criminal Prosecution.

(1) Any industrial user who intentionally or recklessly violates any provision of sections 4.150 to 4.298, any orders or permits issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a Class C misdemeanor, punishable by a fine of not more than \$1,250 per violation, per day, or imprisonment for not more than 30 days or both. For continuing violations, each day that a violation exists or occurs shall be deemed to be a separate violation.

(2) Any industrial user who intentionally or recklessly introduces any substance into the municipal wastewater system which causes personal injury or property damage shall, upon conviction, be guilty of a Class B misdemeanor and be subject to a fine of not more than \$2500 per violation, per day, or be subject to imprisonment for not more than 6 months, or both. For continuing violations, each day that a violation exists or occurs shall be deemed to be a separate violation.

(3) Any industrial user who 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 sections 4.150 to 4.298, or wastewater permit or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under sections 4.150 to 4.298 shall, upon conviction, be guilty of a Class B misdemeanor and be subject to a fine of not more than \$2500 per violation, per day, or imprisonment for not more than six months, or both.

(4) In the event of a second conviction under (1), (2), or (3) above in 12 consecutive months, the user shall be guilty of a Class A misdemeanor and be subject to a fine of not

more than \$5000 per violation, per day, or imprisonment for not more than one year, or both.

[Section 4.280 added by Ordinance No. 1503, passed October 17, 1994.]

4.282 Remedies Nonexclusive.

The remedies provided for in sections 4.150 to 4.298 are not exclusive. The city may take any, all or any combination of these actions against a non-compliant industrial user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the city may take other action against any industrial user when the circumstances warrant. Further, the city is empowered to take more than one enforcement action against any non-compliant industrial user.

[Section 4.282 added by Ordinance No. 1503, passed October 17, 1994.]

4.284 Performance Bonds.

The city may decline to reissue a permit to any industrial user who has failed to comply with any provision of sections 4.150 to 4.298, any orders or a previous permit issued hereunder, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the city, in a sum not to exceed a value determined by the city to be necessary to achieve consistent compliance.

[Section 4.284 added by Ordinance No. 1503, passed October 17, 1994.]

4.286 Liability Insurance.

The city may decline to reissue a wastewater permit to any industrial user who has failed to comply with any provision of sections 4.150 to 4.298, any orders or a previous permit issued here under, or any other pretreatment standard or requirement, unless the industrial user first submits proof that it has obtained financial assurance sufficient to restore or repair damage to the municipal wastewater system caused by its discharge.

[Section 4.286 added by Ordinance No. 1503, passed October 17, 1994.]

4.287 Payment of Outstanding Fees and Penalties.

The Director may decline to issue or reissue an individual wastewater discharge permit to any User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of sections 4.150 to 4.298, a previous individual wastewater discharge permit or order issued hereunder.

4.288 Water Supply Severance.

Whenever an industrial user has violated or continues to violate any provision of sections 4.150 to 4.298, orders or permits issued hereunder, or any other pretreatment standard or requirement, water service to the industrial user may be severed. Service will only recommence, at the user's expense, after said user has satisfactorily demonstrated its ability to comply.

[Section 4.288 added by Ordinance No. 1503, passed October 17, 1994.]

4.289 Contractor Listing

Users which have not achieved compliance with applicable Pretreatment Standards and Requirements are not eligible to receive a contractual award for the sale of goods or services to the city. Existing contracts for the sale of goods or services to the city held by a User found to be in Significant Noncompliance with Pretreatment Standards or Requirements may be terminated at the discretion of the Director.

4.290 Public Nuisances.

Any violation of the prohibitions or effluent limitations in sections 4.150 to 4.298, permits, or orders 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 city or his agent. Any person(s) creating a public nuisance shall be subject to the provisions of DCC 5.500 et seq. governing such nuisance, including reimbursing the city for any costs incurred in removing, abating or remedying said nuisance.

[Section 4.290 added by Ordinance No. 1503, passed October 17, 1994.]

4.291 Informant Reward.

The city is authorized to pay up to five hundred (\$500) for information leading to the discovery of noncompliance by an industrial user. In the event that the information provided results in an administrative fine or civil penalty levied against the industrial user, the city is authorized to disperse up to ten percent (10%) of the collected fine or penalty to the informant.

[Section 4.291 added by Ordinance No. 1503, passed October 17, 1994.]

4.292 Affirmative Defense for Upset.

For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation. An upset shall constitute an affirmative defense to an enforcement action brought against an industrial user for noncompliance with categorical pretreatment standards if the conditions listed below in this section are met. An industrial user who wishes to establish an affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and the user can identify the cause(s) of the upset.
- (2) The facility was at the time being operated in a prudent and workman-like manner and was in compliance with applicable operation and maintenance (O&M) procedures.
- (3) The user has submitted the following information to the Director within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):
 - (a) A description of the indirect discharge and cause(s) of noncompliance;
 - (b) The period of noncompliance, including exact dates and time, or, if not corrected, the anticipated time the noncompliance is anticipated to continue; and
 - (c) Steps being taken to reduce, eliminate and prevent recurrence of the noncompliance.
- (4) In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.
- (5) Industrial users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (6) Industrial users shall control production of all dischargers to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its 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.

[Section 4.292 added by Ordinance No. 1503, passed October 17, 1994.]

4.293 Affirmative Defense for Violation of Prohibited Discharge Standards.

An industrial user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in section 4.158 if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with other discharges from other sources, would cause pass through or interference and that either:

- (1) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to and during the pass through or interference; or
- (2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

[Section 4.293 added by Ordinance No. 1503, passed October 17, 1994.]

4.294 Affirmative Defense for Bypass.

The intentional diversion of wastestreams from any portion of an individual user's treatment facility shall be an affirmative defense to an enforcement action brought against the industrial user if the user can demonstrate that such a bypass was unavoidable to prevent loss of life, personal injury, or severe property damage. In order to be eligible for the affirmative defense, the industrial user must demonstrate that there was no feasible alternative to bypass and submit notice of the bypass.

- (1) For the purposes of this section:
 - (a) "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.
 - (b) "Severe property damage" means substantial physical damage to property, damage to treatment facilities which causes the facilities 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.

- (2) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (3) and (4) of this section.

(3) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Director, at least ten (10) days before the date of the bypass.

(4) A user shall submit oral notice to the Director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass. The Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(5) Bypass is prohibited, and the Director may take an enforcement action against a user for a bypass, unless:

(a) 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 wastes, 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 under paragraph (c) of this section.

(6) The Director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the three conditions listed in paragraph (5) of this section. The decision of the Director is subject to appeal to the city council by filing a written notice of appeal in the office of the manager within 10 days of the date of the Director's decision.

[Section 4.294 added by Ordinance No. 1503, passed October 17, 1994.]

4.295 Surcharge Costs.

[RESERVED]

[Section 4.295 added by Ordinance No. 1503, passed October 17, 1994.]

4.296 Pretreatment Charges and Fees.

The city may by resolution adopt reasonable charges and fees for reimbursement of costs of setting up and operating the city's pretreatment program which may include:

- (1) Fees for wastewater permit applications including the cost of processing such applications;
- (2) Fees for monitoring, inspection and surveillance procedures including the cost of reviewing monitoring reports submitted by industrial users;
- (3) Fees for reviewing and responding to accidental discharge procedures and construction;
- (4) Fees for filing appeals; and
- (5) Other fees as the city may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by sections 4.150 to 4.298 and are separate from all other fees, fines and penalties chargeable by the city.
- (6) The city may recover the city's expenses incurred in collecting and analyzing samples of the industrial user's discharge by adding the costs to the industrial user's sewer charges.

[Section 4.296 added by Ordinance No. 1503, passed October 17, 1994.]

4.297 Severability.

If any provision(s) of sections 4.150 to 4.298 is (are) invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

[Section 4.297 added by Ordinance No. 1503, passed October 17, 1994.]

4.298 Conflicts.

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

[Section 4.298 added by Ordinance No. 1503, passed October 17, 1994.]