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405 Municipal Drive, Kennedale, Texas 76060

AGENDA
KENNEDALE CITY COUNCIL
REGULAR MEETING - November 17, 2011
CITY COUNCIL CHAMBERS

WORK SESSION - 5:30 PM
REGULAR SESSION - 7:00 PM

I. CALL TO ORDER

II. WORK SESSION

NOTE: Pursuant to Section 551.071, Texas Government Code, the City Council reserves the right to adjourn into Executive Session at any time during the work session or the regular session to discuss posted executive session items or to seek legal advice from the City Attorney on any item posted on the agenda.

A. Discuss Impact Fee study update and regional detention application.

B. Discuss potential changes to oil & gas code, including drilling waiver requirements and padsite locations

C. Discuss water and wastewater service contract with the City of Arlington.

III. REGULAR SESSION

IV. ROLL CALL

V. INVOCATION

VI. UNITED STATES PLEDGE

VII. TEXAS PLEDGE
"Honor the Texas Flag; I Pledge Allegiance to Thee, Texas, One State under God; One and Indivisible."

VIII. VISITOR/CITIZENS FORUM
At this time, any person with business before the Council not scheduled on the agenda may speak to the Council. No formal action can be taken on these items at this meeting.

IX. REPORTS/ANNOUNCEMENTS
In addition to any specific matters listed below, the city council may receive a report about items of community interest, including but not limited to recognition of individual officials, citizens or departments, information regarding holiday schedules, upcoming or attended events, etc.

X. CONSENT ITEMS

All matters listed under consent agenda have been previously discussed, require little or no deliberation, or are considered to be routine by the council. If discussion is desired, then an item will be removed from the consent agenda and considered separately.

A. Discuss and consider approval of regular meeting minutes from October 13, 2011

B.Discuss and consider A RESOLUTION ADOPTING AN AMENDED CITY OF KENNEDALE FINANCIAL MANAGEMENT POLICY.

C. Discuss and consider A RESOLUTION ADOPTING A CITY OF KENNEDALE INTERNAL CONTROLS & CASH HANDLING POLICY.

D. Discuss and consider A RESOLUTION ADOPTING AN AMENDED CITY OF KENNEDALE INVESTMENT POLICY.

E. Discuss and consider A RESOLUTION ADOPTING AN AMENDED CITY OF KENNEDALE PROCUREMENT CARD PROGRAM POLICY.

F. Discuss and consider A RESOLUTION ADOPTING AN AMENDED CITY OF KENNEDALE PURCHASING POLICY.

G. Discuss and consider A RESOLUTION ADOPTING A CITY OF KENNEDALE UNCLAIMED PROPERTY POLICY.

H. Discuss and consider A RESOLUTION ADOPTING ETHICAL AND TRAINING STANDARDS FOR JUVENILE CASE MANAGERS EMPLOYED BY THE CITY OF KENNEDALE, PROVIDING FOR IMPLEMENTATION OF SAID STANDARDS, AND PROVIDING FOR PERIODIC REVIEW TO ENSURE IMPLEMENTATION OF THE REQUISITE STANDARDS.

I. Consider authorizing the City Manager to sign the annual Fort Worth Interlocal Agreement for Rabies Control

J. Authorize City Manager to sign agreement with the Cub Scouts for the use of Sonora Park for the Scout day camp site.

K. Final payment and acceptance of project for the Bowman Springs Road Realignment project.

L. Discuss and consider an AN ORDINANCE OF THE CITY OF KENNEDALE, AMENDING CHAPTER 23, ARTICLE III OF THE KENNEDALE CITY CODE (1992), REQUIRING PERMITS TO DISCHARGE INDUSTRIAL WASTE INTO THE KENNEDALE SANITARY SEWER SYSTEM; AUTHORIZING THE DIRECTOR OF THE PUBLIC WORKS TO PROMULGATE REGULATIONS PERTAINING TO SUCH PERMITTING, PROVIDING FOR DEFINITIONS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; REPEALING ORDINANCE NO. 308 (2005); PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

XI. REGULAR ITEMS

A. Case PZ 11-10 to receive comments and consider action on a request for a change in zoning from “C-0” Retail Commercial to “C-1” Restricted Commercial for approximately 1.014 acres located at 4850 US Hwy 287, Kennedale, Tarrant County, Texas, more particularly described as Lot 2 Block 1R

Southwest Crossing Addition. The rezoning is requested by JP Morgan Chase.

B. Discuss and consider AN ORDINANCE OF THE CITY OF KENNEDALE, TEXAS AMENDING CHAPTER 11 "LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS", ARTICLE V "AMUSEMENT HALLS", BY ADOPTING REGULATIONS FOR AMUSEMENT MACHINE ESTABLISHMENTS.

C. Discuss and consider a Resolution casting votes for the election of Tarrant Appraisal Board Members for the 2012 - 2014 term.

D. Discuss and consider action to approve KKB recommendation to move Wayne Wooten from Place 1 on the Keep Kennedale Beautiful Commission to Alternate Place 8.

E. Discuss and consider appointing Stephen Brim and Fred Winters to the Keep Kennedale Beautiful Commission.

XII. EXECUTIVE SESSION

A. The City Council will meet in closed session pursuant to Section 551.071 of the Texas Government Code for consultation with the City Attorney pertaining to any matter in which the duty of the City Attorney under the Texas Disciplinary Rules of Professional Conduct may conflict with the Open Meetings Act, including discussion on any item posted on the agenda and legal issues regarding regulation of sexually oriented businesses, litigation, settlement offers, and/or claims regarding the following matters:

1. H & A Land Corporation, et al. v. City of Kennedale - Cause No. 402-CV-0458-Y (Dreamer's and Showtime)
2. Chesapeake Energy
3. Kennedale vs. H.M. Real Estate Management, Inc.

XIII. RECONVENE INTO OPEN SESSION, AND TAKE ACTION NECESSARY PURSUANT TO EXECUTIVE SESSION, IF NEEDED

XIV. ADJOURNMENT

Staff Report to the Honorable Mayor and City Council

Date: November 17, 2011

Agenda Item No: WORK SESSION - A.

I. Subject:

Discuss Impact Fee study update and regional detention application.

II. Originated by:

Bob Hart, City Manager

III. Summary:

Bob Hart will present information on this topic.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

None

VII. Alternative Actions:

VIII. Attachments:

Staff Report to the Honorable Mayor and City Council

Date: November 17, 2011

Agenda Item No: WORK SESSION - B.

I. Subject:

Discuss potential changes to oil & gas code, including drilling waiver requirements and padsite locations

II. Originated by:

Rachel Roberts, City Planner

III. Summary:

In a recent work session, we asked for guidance on the city's waiver requirements for oil and gas drilling, on behalf of the Planning & Zoning Commission. Several Council members provided comments at that time, but the Planning & Zoning Commission would have better guidance if it could hear from all Council members. We are therefore bringing this matter to you again and ask for guidance from the full Council. The issue at question is the sections of the city code allowing for operators to get around the requirement that 100% of property owners within a certain distance of a proposed well must agree in writing to allow the well to be drilled at a distance closer than what is allowed by the code generally. For example, the code prohibits wells from being drilled closer than 600 feet to a habitable structure, but if 100% of affected property owners agree, an operator may drill as close as 300 feet to a habitable structure. In addition, if only 80% of the property owners agree, the operator can appeal to the Board of Adjustment for an exception to the requirement that 100% of property owners must agree. Because we've had some difficulty administering this section of the code, the Commission is considering recommending that the regulations be changed back to a straight 100% requirement, which is what used to be required. However, before the Commission makes such a recommendation, it would like to have guidance from the Council on this issue.

Another matter for which we need Council guidance is the 3500 foot distance requirement between padsites. We've had a meeting with EOG resources, and they would like to add another padsite in Kennedale, but the city's distance requirement would prohibit their using the location they have in mind. EOG's difficulty in reaching this particular pool of mineral leases raises the issue that the city does not have a variance or waiver process in place for the 3500 foot distance requirement. Should the city consider adding a waiver process, or is it preferable to leave the regulation in place as it is? One factor to consider is what standards would be used to determine when to grant a waiver or variance. Staff will appreciate guidance from Council.

IV. Fiscal Impact Summary:

None

V. Legal Impact:

None

VI. Recommendation:

None

VII. Alternative Actions:

VIII. Attachments:

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Staff Report to the Honorable Mayor and City Council

Date: November 17, 2011

Agenda Item No: WORK SESSION - C.

I. Subject:

Discuss water and wastewater service contract with the City of Arlington.

II. Originated by:

Bob Hart, City Manager

III. Summary:

Bob Hart will provide information on this topic.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

None

VII. Alternative Actions:

VIII. Attachments:

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Staff Report to the Honorable Mayor and City Council

Date: November 17, 2011

Agenda Item No: CONSENT ITEMS - A.

I. Subject:

Discuss and consider approval of regular meeting minutes from October 13, 2011

II. Originated by:

III. Summary:

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

VII. Alternative Actions:

VIII. Attachments:

1.	Minutes	10.13.2011_MINUTES_City Council Regular Meeting.doc

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405 Municipal Drive, Kennedale, Texas 76060

MINUTES
KENNEDALE CITY COUNCIL
REGULAR MEETING - October 13, 2011
CITY COUNCIL CHAMBERS

I. CALL TO ORDER

Mayor Lankhorst called the work session to order at 5:37pm

II. WORK SESSION

NOTE: Pursuant to Section 551.071, Texas Government Code, the City Council reserves the right to adjourn into Executive Session at any time during the work session or the regular session to discuss posted executive session items or to seek legal advice from the City Attorney on any item posted on the agenda.

Work session item D was moved to the top of the work session agenda.

D. Discuss water and waste water agreements with the City of Arlington

Bob Hart have background information regarding the current state of water agreements between Kennedale and Arlington, noting that Arlington currently provides both water and waste water services to small portions of Kennedale. The discussion also covered areas of Sublett Road and Bowman Springs roads along the Arlington boundaries.

A. Discuss current student-led research

- Bird Sanctuary Project

Rachel Roberts presented information regarding the project with UTA, noting that projects include how to approach outreach, partnerships, and research regarding pesticide agreements, etc. Rachel also noted that the great backyard bird count would take place in February of 2012.

- Board and Commission Handbook Project

Amethyst Cirmo presented information on the handbook project with UTA, noting that a draft handbook would be available in the next few weeks.

- Kennedale Parkway Code Enforcement Project

Bob Hart presented Carrie Hart and Emily Hudson from UNT, who will be working on initiatives regarding Kennedale Parkway. The outcome of this project will be several options on approaches to dealing with the cleanup of Kennedale Parkway.

- Kennedale Parkway Economic Development Project

Bob Hart presented information on the project, noting that the focus will be on economic development incentive options.

B. Discuss joint dispatch possibilities

Police Chief Tommy Williams gave background information on the idea of a joint dispatch center, noting that if dispatch were to move the jail would move as well. Current potential options on the table include partnering with:

- Forest Hill & Dalworthington Gardens
- Mansfield, Mansfield ISD, & Burleson
- Arlington

C. Discuss 9-11 Memorial event

Bob Hart presented information regarding October 15th's dedication ceremony. Draft programs were presented and the schedule of events was discussed.

Mayor Lankhorst adjourned the work session at 6:47pm

III. REGULAR SESSION

Mayor Lankhorst called the meeting to order at 7:03pm.

IV. ROLL CALL

RollCall.

Present: Frank Fernandez, John Clark, Brian Johnson , Kelly Turner, Liz Carrington, Bryan Lankhorst (Not Voting).

CITY STAFF		***PRESENT***	***ABSENT***
Bob Hart	City Manager	x	
Amethyst Cirmo	City Secretary & Communications	x	
Wayne K. Olson	City Attorney	x	
James Cowey	Development Services Director	x	
Tommy Williams	Police Chief	x	
Mike McMurray	Fire Chief	x	
Sakura Moten-Dedrick	Finance and IT Director	x	
Larry Ledbetter	Public Works Director	x	
Rachel Roberts	City Planner	x	
Kelly Cooper	Human Resources Director	x	

V. INVOCATION

VI. UNITED STATES PLEDGE

Kennedale Boy Scout Troop 35 lead the council in both pledges.

VII. TEXAS PLEDGE

"Honor the Texas Flag; I Pledge Allegiance to Thee, Texas, One State under God; One and Indivisible."

VIII. VISITOR/CITIZENS FORUM

At this time, any person with business before the Council not scheduled on the agenda may speak to the Council. No formal action can be taken on these items at this meeting.

1. Pat Doescher, Chair of the Kennedale Chamber of Commerce thanked the council for their participation and support of their recent Golf Tournament and announced that the next Parade meeting would be held on Monday the 17th at 6:00pm.
2. Greg Hudson, Executive Director of the Kennedale Chamber of Commerce approached the council, thanking him I advance for his participation with the next Chamber Luncheon. Next

month's Luncheon will be held on November 9th of the month with Representative Joe Barton. Greg also noted that residents can now follow the Chamber on Twitter.

3. Roy Banning of 1020 Kennedale-Sublett Road approached the council regarding construction on Kennedale-Sublett Road, noting that he did not receive mail several days last week and that he ha spoken with the post office concerning that situation. He also noted that one day last week he was unable to exit his property. He has spoken with Larry Hoover, Streets Supervisor, regarding the scheduled completion date for construction.

4. Michael Chandler, 700 E Kennedale Parkway and Chair of the Keep Kennedale Beautiful Commission presented information regarding the Sonora Park cleanup held on Saturday, October 8th. 44 residents attended, boy scouts and cub scouts constructed birdhouses, and a great time was had by all who attended. KKB plans to make this an annual or more frequent event.

5. Kelly Hunt, 207 Oak Ridge Trail, approached the council regarding the annual Kennedale School District Scholarship Auction. This year the number of qualified students has dramatically increased.

6. Keli Rod from the Kennedale Rotary Club approached the council regarding a potential proclamation regarding world polio day. She has requested that council consider making this proclamation in the future.

IX. REPORTS/ANNOUNCEMENTS

A. Mayor updates and information, if any.
- Proclamation: Municipal Court Week November 7-11, 2011
- Proclamation: National Pancreatic Cancer Month
  - Mayor Lankhorst encouraged the public to attend the 9-1 Memorial Dedication Ceremony.

B. Council Member updates and information, if any.
- John Clark requested that more tools be available to residents for the next ark cleanup event.

C. City Manager updates and information, if any.
- Bob Hart reminded the public that the 9-11 Memorial Dedication Ceremony will take place on Saturday, October 15th from 10-1130am, to be followed by the Public Safety Open House at the Fire Station. The citywide yard sale will also take place this weekend. The Citywide cleanup event will be held on Saturday, October 22nd from 8 to 12 noon at 1000 E Kennedale Parkway.

X. CONSENT ITEMS

All matters listed under consent agenda have been previously discussed, require little or no deliberation, or are considered to be routine by the council. If discussion is desired, then an item will be removed from the consent agenda and considered separately.

A. Consider approval of meeting minutes from regular meeting held on September 8, 2011.

B. Consider authorizing the City Manager to renew the lease contract for the Kennedale Chamber of Commerce for their use of the city building located at 201 South New Hope Road.

C. Discuss and consider A RESOLUTION AUTHORIZING PARTICIPATION IN VARIOUS COOPERATIVE PURCHASING PROGRAMS.

D. Discuss and consider A RESOLUTION ADOPTING AN AMENDED CITY OF KENNEDALE FRAUD POLICY.

E. Discuss and consider A RESOLUTION ADOPTING AN AMENDED CITY OF KENNEDALE GRANT SUBMISSION & ACCEPTANCE POLICY.

F. Discuss and consider A RESOLUTION ADOPTING AN AMENDED CITY OF KENNEDALE IDENTITY THEFT PREVENTION PROGRAM POLICY.

Motion: To accept the consent agenda as presented., **Action:** Approve, **Moved by** Kelly Turner, **Seconded by** John Clark.
Motion passed unanimously.

XI. REGULAR ITEMS

A. Discuss and consider approval of a Resolution nominating candidates for the Tarrant Appraisal District Board of Directors.

Bob Hart noted that this Resolution was optional.

The council decided not to make a Resolution designating nominees. No action was taken.

B. Discuss and consider appointing Cheri Yori to Place 3 of the Arts and Cultural Advisory Board.

Motion: To appoint Cheri Yori to Place 3 of the Arts and Cultural Advisory Board., **Action:** Approve, **Moved by** Brian Johnson , **Seconded by** Kelly Turner.
Motion passed unanimously.

C. Discuss and consider authorizing the City Manager to execute an interlocal agreement with Tarrant County for construction related to the extension of Little School Road.

Bob Hart noted that with regard to the agreements in regular items B, C, and D, Kennedale buys the material and Tarrant County constructs the road. Funding of this project would be through the EDC as part of the industrial development program.

Motion: To authorize the City Manager to execute the contract as presented. , **Action:** Approve, **Moved by** John Clark, **Seconded by** Kelly Turner.
Motion passed unanimously.

D. Discuss and consider authorizing the City Manager to execute an interlocal agreement with Tarrant County for the reconstruction of Timberline Street.

Bob Hart noted that Mistletoe had been completed with these funds last year.

Motion: To authorize the City Manager to execute the interlocal contract with Tarrant County as presented. , **Action:** Approve, **Moved by** Brian Johnson , **Seconded by** Frank Fernandez.
Motion passed unanimously.

E. Discuss and consider authorizing the City Manager to execute an interlocal agreement with Tarrant

County for the construction of Alma Lane.

Bob Hart noted that this street has been platted for some time, and will connect Mansfield Cardinal to Kennedale Parkway, that construction will likely occur sometime in November 2011, and that it will take about one week.

Motion: To authorize the City Manager to execute the interlocal contract as presented. , **Action:** Approve, **Moved by** John Clark, **Seconded by** Liz Carrington.
Motion passed unanimously.

F. Discuss and consider authorizing the City Manager to submit required documentation of eminent domain authority to the Texas State Comptroller of public accounts.

Bob Hart presented information to the council, noted that the City Attorney's Office will be providing assisting information in the near future.

Motion: To authorize the City Manager to execute the document as presented., **Action:** Approve, **Moved by** Brian Johnson , **Seconded by** John Clark.
Motion passed unanimously.

G. Discuss and consider A RESOLUTION ADOPTING THE DISADVANTAGED BUSINESS ENTERPRISE PROGRAM OF THE TEXAS DEPARTMENT OF TRANSPORTATION FOR USE ON PROJECTS THAT ARE PARTIALLY OR WHOLLY FUNDED THROUGH THE FEDERAL HIGHWAY ADMINISTRATION; AUTHORIZING THE CITY MANAGER OR THE CITY MANAGER'S DESIGNEE, TO EXECUTE ALL NECESSARY DOCUMENTS INCIDENT TO ADOPTION THE TXDOT DBE PROGRAM; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS RESOLUTION WAS PASSED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; MAKING OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

Bob Hart explained that the city's recent application for CMAQ funding for Kennedale Parkway projects and that adoption of this Resolution is necessary to qualify for this funding. Staff members will also be attending certification classes to be qualified to administer TXDOT grants.

John Clark asked for clarification of 'Disadvantaged Busines Enterprise Program.' Mr. Hart noted that this included ensuring that women-owned and underutilized businesses would be included in bid processes.

Motion: To approve the Resolution as presented. , **Action:** Approve, **Moved by** Liz Carrington, **Seconded by** Kelly Turner.
Motion passed unanimously.

XII. EXECUTIVE SESSION

The council retired to executive session at 7:53pm.

A. The City Council will meet in closed session pursuant to Section 551.071 of the Texas Government Code for consultation with the City Attorney pertaining to any matter in which the duty of the City Attorney under the Texas Disciplinary Rules of Professional Conduct may conflict with the Open Meetings Act, including discussion on any item posted on the agenda and legal issues regarding litigation, settlement offers, and/or claims regarding the following matters:

1. 400 N Little School Rd
2. Stephen Avdeef

XIII. RECONVENE INTO OPEN SESSION, AND TAKE ACTION NECESSARY PURSUANT TO EXECUTIVE SESSION, IF NEEDED

Mayor Lankhorst called the regular session back to order at 8:42pm.

XIV. ADJOURNMENT

Motion: To adjourn the meeting. , **Action:** Adjourn, **Moved by** Brian Johnson , **Seconded by** John Clark. Motion passed unanimously.

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Staff Report to the Honorable Mayor and City Council

Date: November 17, 2011

Agenda Item No: CONSENT ITEMS - B.

I. Subject:

Discuss and consider A RESOLUTION ADOPTING AN AMENDED CITY OF KENNEDALE FINANCIAL MANAGEMENT POLICY.

II. Originated by:

Sakura Moten-Dedrick, Director of Finance & IT

III. Summary:

A Financial Management Policy provides guidelines to enable the City staff to achieve a long-term, stable financial condition, while conducting daily operations and providing services that are consistent with the Council-Manager form of government established in the City Charter.

It is the recommendation of our independent auditors that our main policies be reviewed by the Director of Finance for updates in relation to our internal control practices and submitted to Council at least annually. In order to demonstrate our review, it is custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

The two major changes that have been made include updates given changes to GASB 54's new incorporation of fund balance definitions, and the addition of actual language from the City of Kennedale Charter not previously included in regards to budget adoption. Both of these revisions not only better communicate our financial standards and goals, but evenmore, they relay vital information to key stakeholders in one central document.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Resolution To Amend Financial Management Policy	Resolution To Amend Financial Management Policy.doc
2.	Financial Management Policy	20111013 Financial Management Policy.docx

RESOLUTION NO. _______________

A RESOLUTION ADOPTING AN AMENDED CITY OF KENNEDALE FINANCIAL MANAGEMENT POLICY

WHEREAS, on June 10, 2004, City Council adopted the document entitled, "Financial Management Policy," a framework for fiscal decision-making to ensure that financial resources are available to meet the present and future needs of the citizens of Kennedale; and

WHEREAS, the benefits of financial management policies are to improve and streamline the decision-making process, enhance credibility, provide a sense of continuity, and provide a means for dealing with fiscal emergencies; and

WHEREAS, the City Council has reviewed the City's Financial Management Policy.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE, TEXAS:

> The City Council of the City of Kennedale, Texas hereby approves the amended Financial Management Policy dated November 17, 2011, attached hereto as "Exhibit A."

PASSED, ADOPTED AND APPROVED by the City Council of the City of Kennedale, Texas, this the 17th day of November 2011.

APPROVED:

____

Mayor, Bryan Lankhorst

ATTEST:

____

City Secretary, Amethyst Cirmo

OFFICIAL SEAL

CITY OF KENNEDALE

KENNEDALE
Finance Department

FINANCIAL MANAGMENT POLICY

ORIGINALLY ADOPTED BY CITY COUNCIL: JUNE 10, 2004

PREFACE

A Financial Management Policy provides guidelines to enable the City staff to achieve a long-term, stable financial condition, while conducting daily operations and providing services that are consistent with the Council-Manager form of government established in the City Charter.

It is our intent to bring forth this policy to Council for review at least annually. In order to demonstrate that review, it will be custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

SUBSEQUENT REVIEW & ADOPTION

DECEMBER 11, 2008

NOVEMBER 5, 2009

OCTOBER 14, 2010

NOVEMBER 17, 2011

I. PURPOSE

The City of Kennedale's financial policies set forth the basic framework for the fiscal management of the City. These policies were developed within the parameters established by applicable provisions of the Texas Local Government Code and the City of Kennedale Charter. The policies are intended to assist the City Council and City staff in evaluating current activities and proposals for future programs. The policies are to be reviewed on an annual basis and modified to accommodate changing circumstances or conditions.

II. ANNUAL BUDGET (CHARTER REQUIREMENTS)

A. <u>Fiscal Year</u> – The fiscal year shall begin on the first day of October (1st) and end on the last day of the following September (30th). The fiscal year will also be established as both the accounting and budget year.

B. <u>Submission</u> – The City Manager, on or before the first day of August (1st) of each year, shall prepare and submit to the City Council an annual proposed budget (generally during an workshop or retreat) for the ensuing fiscal year designed to meet the goals and objectives of the City Council. It must contain the following:

1) Budget Message shall explain the budget both in fiscal terms and in terms of work programs for the ensuing fiscal year. It shall outline the proposed financial policies of the City and shall include a forecast of a five-year estimate of revenues and expenditures, as well as an effect on taxation;

2) Comparative figures for the estimated income and expenditures for the ensuing fiscal year compared to the combination of: actual income and expenditures through, the latest complete accounting period that information is available for at the commencement of budget preparation, and the estimated income and expenditures for the incomplete portion of the current fiscal year. FOR EXAMPLE: for upcoming FY11/12 budget, comparative should display FY09/10 actual, FY10/11 through April (assuming budget is prepared at this time), FY10/11 year-end estimate, and FY11-12 proposed budget;

3) Proposed Expenditures of each office, department or function;

4) Schedule of debt service requirements due on all outstanding indebtedness and on any proposed debt;

5) Source or basis of the estimates;

6) Balanced budget in which the total of the proposed expenditures shall not exceed the total estimated income and the balance of available funds; and

7) Other information as may be required by the Council or deemed desirable by the City Manager.

C. Public Hearing – Shall be conducted by the Council, allowing interested citizens to express their opinions concerning items of expenditures and/or revenues. The notice of hearing shall be published in the official newspaper of the City of Kennedale not less than ten (10) or more than 30 days before the hearing.

D. Adoption – Following the public hearing, the Council shall further analyze the proposed budget, making any additions or deletions which it feels appropriate, and shall by ordinance, with or without amendment, adopt the budget before the first (Oct 1st) day of the ensuing fiscal year by a majority vote. On final adoption, the budget shall be in effect for the budget year and shall constitute the official appropriations for the current year and the basis of the official levy of the property tax. Should the Council take no final action before the first (1st) day of the ensuing fiscal year, the amounts appropriated for the current fiscal year shall be deemed adopted on a month to month basis.

III. BASIS OF ACCOUNTING & BUDGETING

A. Accounting – The City of Kennedale finances shall be accounted for in accordance with generally accepted accounting principles as established by industry practice and applicable governing Accounting Standards Boards.

1) The financial transactions of the City of Kennedale are accounted for and recorded in individual funds. These funds account for revenues and expenditures according to their intended purpose and are used to aid management in demonstrating compliance with finance-related legal and contractual provisions. The minimum number of funds is maintained consistent with legal and managerial requirements. Governmental funds are used to account for the government's general government activities and include the General, Special Revenue, Internal, Debt Service and Capital Project funds.

2) Governmental fund types use the flow of current financial resources measurement focus and the modified accrual basis of accounting. Under the modified accrual basis of accounting, revenues are recognized when susceptible to accrual (i.e., when they are "measurable and available"). "Measurable" means the amount of the transaction can be determined and "available" means collectable within the current period or soon enough thereafter to pay liabilities of the current period. Substantially all material revenues are considered to be susceptible to accrual. A thirty-day availability period is used for revenue recognition for all governmental fund type revenues, to include fines and forfeitures. Expenditures are recognized when the related fund liability is incurred, if measurable, except for unmatured principal and interest on general long-term debt, which are recorded when due.

Compensated absences, claims, and judgments are recorded when the obligations are expected to be paid with current available financial resources.

3) The City of Kennedale does not utilize encumbrance accounting for operating use at year-end.

4) The Proprietary fund types are accounted for on a flow of economic resources measurement focus and use the accrual basis of accounting. Under this method, revenues are recorded when earned and expenses are recorded at the time liabilities are incurred.

B. The budgets shall be prepared and adopted on a cash basis for all governmental funds and modified accrual basis for proprietary funds. The capital projects funds adopt project-length budgets at the time of their presentation. Annual appropriations lapse at fiscal year-end for operating and debt service funds.

IV. BUDGET ADMINISTRATION

A. All expenditures of the City of Kennedale shall be made in accordance with the annual budget. Budgetary control is maintained at the individual expenditure account level by each department head through the review of all requisitions.

B. The following represents the City of Kennedale budget amendment policy delineating responsibility and authority for the amendment process. Transfers between expenditure accounts in one department may occur with the approval of the Department Head and Director of Finance. Transfers between operating departments may occur with the approval of the City Manager's Office. Transfers between funds must be accomplished by budget amendment approved by the City Council. Budget amendments calling for new fund appropriations must also be approved by the City Council. Should the City Council decide a budget amendment is necessary, the amendment is adopted in ordinance format, and the necessary budgetary changes are then made.

C. As a matter of course, continuous budget monitoring requires that deviations from expected amounts of revenue and/or expenditures be noted and estimates revised, if necessary, to avoid financial distress. Budget amendments are thus considered prudent financial management techniques and are deemed to fulfill the requirements of City Charter.

V. FINANCIAL REPORTING

A. Following the conclusion of the fiscal year, the Director of Finance shall cause to be prepared a Comprehensive Annual Financial Report (CAFR) in accordance with generally accepted accounting and financial reporting principles established by industry practice and statements issued by the Governmental Accounting Standards Board (GASB). The document shall also satisfy all criteria of the Government Finance Officers Association's (GFOA) Certificate of Achievement for Excellence in Financial Reporting Program.

B. The CAFR shall show the status of the city's finances on the basis of generally accepted accounting principles (GAAP). The CAFR shall show fund revenues and expenditures on both a GAAP basis and budget basis for comparison purposes. In most cases, this reporting conforms to the way the city prepares its budget. Differences in format are acknowledged through reconciliations. Liabilities for post-employment benefits and compensated absences (accrued but unused sick and vacation leave) are not reflected in the budget, but are accounted for in the CAFR's government-wide financial statements. The government-wide financial statements modify the presentation of the governmental funds by presenting their results in the same manner as proprietary funds.

C. Included as part of the CAFR shall be the results of the annual audit prepared by independent certified public accountants designated by the City Council.

D. Each fiscal year, the Director of Finance will analyze accounts receivable balances and, if necessary, write off uncollectible accounts in accordance with applicable statutes after review by the City Manager or his designee.

E. The City Manager shall present a monthly financial report and such additional information as may be required by the City Council. Al income and expenses for the preceding month and for the year to date shall be shown and compared to the fiscal budget. These reports will be prepared by the Finance Department and distributed to and reviewed by each department head. Information obtained from financial reports and other operating reports is to be used by department heads to monitor and control the budget as authorized by the City Manager.

F. The auditor's report on City's financial statements shall be completed and submitted to the City Council within one hundred twenty (120) days after the City's fiscal year end.

VI. REVENUES

A. To protect the City of Kennedale's financial integrity, the City will maintain a diversified and stable revenue system to shelter it from fluctuations in any particular revenue source.

1) The City will strive to keep the revenue system simple, which will result in a decrease of compliance costs for the taxpayer or service recipient and a corresponding decrease in avoidance to pay.

2) The City will strive to understand its revenue sources and predict the reliability of revenue streams. City will enact consistent collection policies so that management may reasonably rely upon the certainty that revenues will materialize according to budgets, plans, and programs.

B. For every annual budget, the City of Kennedale shall levy two property tax rates: operation/maintenance and debt service. The debt service levy shall be sufficient for meeting all principal and interest payments associated with the City's outstanding debt for that budget year. The debt service levy and related debt service expenditures shall be accounted for in the General Debt Service fund. The operation and maintenance levy shall be accounted for in the General Fund.

1) The City of Kennedale will maintain a policy of levying the lowest tax rate on the broadest tax base. Mandated exemptions will be provided to home owners, senior citizens and disabled citizens. On an annual basis during the budget process, City Council will review the exemption for senior citizens and disabled persons with a goal to maintain a tax benefit of approximately 30% of the average home value.

2) Property shall be assessed at 100% of the fair market value as appraised by Tarrant Central Appraisal District. Reappraisal and reassessment will be done regularly as required by State law. A 99% collection rate on current assessments and a 1% collection rate on delinquent assessments and penalties will serve as "the goal" for tax collections.

C. The City of Kennedale will establish user charges and fees at a level that attempts to recover the full cost of providing the service.

1) User fees, particularly utility rates, should identify the relative costs of serving different classes of customers.

2) The City will make every reasonable attempt to ensure accurate measurement of variables impacting taxes and fees (e.g. verification of business sales tax payments, verification of appraisal district property values, accuracy of water meters, etc.)

3) The City will strive to maintain equity in the revenue system structure. That is, the City will seek to minimize or eliminate all forms of subsidization among entities, funds, services, utilities, and customers.

D. The City of Kennedale will attempt to maximize the application of its financial resources by obtaining supplementary funding through agreements with other public and private agencies for the provision of public services or the construction of capital improvements. The City of Kennedale will consider market rates and charges levied by other public and private organizations for similar services in establishing tax rates, fees and charges.

E. When developing the annual budget, the City Manager shall project revenues from every source based on actual collections from the preceding year and estimated collections of the current fiscal year, while considering known circumstances, which will impact revenues for the new fiscal year. The revenue projections for each fund should be made conservatively so that total actual fund revenues exceed budgeted projections.

VII. OPERATING EXPENDITURES

A. Operating expenditures shall be accounted, reported, and budgeted for in the following major categories:

1) Personnel
2) Supplies
3) Maintenance
4) Sundry
5) Debt
6) Transfers
7) Capital
8) Grants

B. The annual budget shall appropriate sufficient funds for operating, recurring expenditures necessary to maintain established quality and scope of city services.

C. The City of Kennedale will constantly examine the methods for providing public services in order to reduce operating, recurring expenditures and/or enhance quality and scope of public services with no increase to cost.

D. Personnel expenditures will reflect the minimum staffing needed to provide established quality and scope of city services. To attract and retain employees necessary for providing high-quality service, the City shall maintain a compensation and benefit package competitive with the public and, when quantifiable, private service industries.

E. Supplies expenditures shall be sufficient for ensuring the optimal productivity of City employees.

F. Maintenance expenditures shall be sufficient for addressing the deterioration of the City's capital assets to ensure the optimal productivity of the capital assets. Maintenance should be conducted to ensure a relatively stable level of maintenance expenditures for every budget year.

G. Sundry expenditures include fees for attorneys, auditors, consultants and other services that require specialized expertise.

H. The City of Kennedale will utilize contracted labor for the provision of city services whenever private contractors can perform the established level of service at less expense to the City. The City will regularly evaluate its agreements with private contractors to ensure the established levels of service are performed at the lowest possible cost.

I. Existing capital equipment shall be replaced when needed to ensure the optimal productivity of City of Kennedale employees. New capital purchases shall be made only to enhance employee productivity, improve quality of service, or expand scope of service.

J. To assist in controlling the growth of operating expenditures, operating departments will submit their annual budgets to the City Manager within fiscal parameters provided by the City Manager's Office.

K. All purchases shall be in accordance with City's Purchasing Policy and in accordance with State law.

L. All invoices will be paid within thirty (30) days of receipt in accordance with State law. Procedures will be used to take advantage of all purchase discounts where considered cost effective. Payments will be processed in order to maximize the city's investable cash.

M. The City will pursue every opportunity to provide for the public's and City employees' safety. Health insurance coverage and property and casualty insurance coverage will be reviewed annually as to amount of coverage provided and cost effectiveness.

N. The City will maintain property, liability and workman's compensation coverage through participation in the Texas Municipal League's (TML) Intergovernmental Risk Pool. The Pool maintains reinsurance coverage to protect the Pool in the event of excessive losses.

XIII. DEBT EXPENDITURES

A. The City of Kennedale will issue debt only to fund capital projects, which cannot be supported by current, annual revenues.

B. The City will strive to maintain a bond coverage ratio of 1.50 times in the Water/Sewer Fund.

C. To minimize interest payments on issued debt, the City will maintain a rapid debt retirement policy by issuing debt with maximum maturities not exceeding 20 years (i.e., the life of the bonds will not exceed the useful life of the projects financed). Retirement of debt principal will be structured to ensure constant annual debt payments.

D. The City of Kennedale will attempt to maintain unenhanced, underlying base bond ratings (prior to insurance) of A+ (Standard & Poor's) on its general obligation debt. The City shall continue to seek to enhance its credit quality by frequent contact and visits with the rating agencies and monitoring the current trends and guidance from the agencies.

E. When needed to minimize annual debt payments, the City of Kennedale will obtain insurance for new debt issues.

F. In order to minimize the impact of debt issuance on the property tax rate and to assist the City in meeting its arbitrage requirements, the City will consider the sequential sale of bonds for the purpose of financing capital projects.

G. The City will maintain procedures that comply with arbitrage rebate and other federal requirements. City will attempt, within legal bounds, to adopt strategies, which will minimize the arbitrage rebate of interest earnings on unspent bond proceeds it must pay to the federal government.

IX. CAPITAL EXPENDITURES

A. The City of Kennedale will develop a multi-year plan for capital projects, which identifies all projects likely to be constructed within a five year horizon. The multi-year plan will reflect for each project the likely source of funding and attempt to quantify the project's impact to future operating expenditures.

B. Capital projects will be constructed to:

a. Protect or improve the community's quality of life;

b. Protect or enhance the community's economic vitality;

c. Support new development; and/or

d. Provide significant rehabilitation of City infrastructure for sustained service.

C. Capital project expenditures will not be authorized by the City Council without identification and commitment of revenue sources sufficient to fund the improvement. Potential funding sources include, but are not limited to, reserve funds, debt issuances, matching fund revenues, user fees, grants, or reallocation of existing capital funds with the recognition that construction of previously authorized capital projects may be delayed or postponed.

D. Capital Improvement Planning and Programming shall include the following categories for the determination of funding for individual projects: design costs, right-of-way costs, utility construction/adjustment costs, construction costs, appropriate contingency funds, furnishings and equipment, and direct project administration services provided by City employees or outside forces.

E. Cost incurred for advanced planning of capital projects may be funded from reimbursement of appropriate debt or operating funds.

F. The City will intend to maintain adequate funding levels in the developer participation fund to ensure that no City obligation for participation goes unfunded for a period of more than one (1) year.

G. To minimize the issuance of debt, the City of Kennedale will attempt to support capital projects with appropriations from operating revenues or excess fund balances (i.e. "pay-as-you-go").

X. UTILITY CAPITAL EXPENDITURES

A. The City of Kennedale uses three funding sources for Utility Capital expenditures.

1) Utility rates are designed to provide for a depreciation reserve, which accumulates resources to replace or rehabilitate aging infrastructure.

2) The multi-year financial plan provides debt strategies to finance needed capital items.

3) Annual transfers may be made from utility operations to maintain adequate funding for capital items.

XI. FUND TRANSFERS

A. Fund transfers may occur when surplus fund balances are used to support non-recurring capital expenses or when needed to satisfy debt service obligations.

B. Fund transfers are used to pay for the following types of costs:

1) <u>Administrative</u> - Transfer from Water/Sewer Fund (Proprietary Fund) and Economic Development Corporation Fund (Component Unit) to reimburse the General Fund for recurring support costs, such as personnel, materials, etc.

2) Payment In Lieu Of Taxes (PILOT) – Transfer from Water/Sewer Fund (Proprietary Fund) to the Street Improvement Fund (General Fund) to pay franchise fees. These are otherwise known as right-of-way fees.

XII. FUND BALANCE

A. The annual budget shall be presented to Council, with each fund reflecting minimum ending fund balances as follows:

1)	General Fund	25% of Expenditures
2)	General Debt Service Fund	10% of Expenditures
3)	Water/Sewer Fund (Working Capital)	25% of Expenditures
4)	Water/Sewer Debt Service Fund	Compliance With Bond Covenants
5)	Economic Development Corporation Fund	25% of Expenditures

B. Fund balances, which exceed the minimum level established for each fund, may be appropriated for non-recurring capital projects or programs.

C. The City of Kennedale will exercise diligence in avoiding the appropriation of fund balance for recurring operating expenditures. In the event that fund balance is appropriated for recurring operating expenditures to meet the needs of the community, the budget document shall include an explanation of the circumstances requiring the appropriation, and the methods to be used to arrest the future use of fund balance for operating expenditures.

D. For financial statement purposes, all governmental fund balances will be classified as follows:

1) Nonspendable - Amounts that cannot be spent; legally or contractually required to be maintained.

2) Restricted - Amounts that have external enforceable legal restrictions.

3) Committed - Amounts that can only be used for specific purposes as directed through formal action of the City Council. Amounts can only be changed or revoked through similar formal action of the Council.

4) Assigned - Amounts intended to be used for specific purposes as designated by management.

5) Unassigned - Remaining amounts that have not met the criteria for nonspendable, restricted, committed or assigned.

E. When both restricted and unrestricted resources are available for use, it is the City's policy to use restricted resources first, and then unrestricted resources as they are needed.

XIII. LONG-TERM FINANCIAL PLAN

The City of Kennedale will adopt the annual budget in the context of a long-term financial plan, or other multi-year budget analysis. The long-term financial plans will establish assumptions for revenues, expenditures and changes to fund balances over a five year horizon. The assumptions will be evaluated periodically as part of the budget development process.

XIV. CASH MANAGEMENT & INTERNAL CONTROLS

A. Written Procedures - The Director of Finance is responsible for developing written guidelines on accounting, cash handling, segregation of duties, and other financial matters, which will be approved by the City Manager. The Finance Department will assist department heads as needed in tailoring such guidelines to fit each department's requirements, as well as periodically review staffing and training to ensure adequacy.

B. Department Heads' Responsibility - Each department head is responsible to the City Manager to ensure that proper internal controls are followed throughout his or her department to safeguard City funds, that all guidelines on accounting and internal controls are implemented, and that all independent auditor control recommendations are addressed.

C. Cash – City cash shall be deposited on a daily basis in all instances. At no time shall cash be collected and warrant less frequent deposits.

D. Investments - The City's investment portfolio shall be managed in accordance with the Public Funds Investment Act and the City's Investment Policy. The timing and amount of cash needs and availability shall be systematically projected in order to maximize interest earnings from investments. As per state law, the Director of Finance will issue quarterly reports on investment activity to the City Council. Each report will be issued within thirty (30) days from the end of the quarter.

E. Fixed Assets and Inventory - Such assets will be reasonably safeguarded and properly accounted for and prudently insured. The fixed asset inventory will be updated regularly.

XV. ANNUAL REVIEW

The Director of Finance shall, at a minimum, submit proposed amendments of this policy to the City Council annually.

Staff Report to the Honorable Mayor and City Council

Date: November 17, 2011

Agenda Item No: CONSENT ITEMS - C.

I. Subject:

Discuss and consider A RESOLUTION ADOPTING A CITY OF KENNEDALE INTERNAL CONTROLS & CASH HANDLING POLICY.

II. Originated by:

Sakura Moten-Dedrick, Director of Finance & IT

III. Summary:

The goal of the City of Kennedale's Internal Controls & Cash Handling Policy is to ensure adequate measures by effectively safeguarding, depositing and accounting for cash on behalf of the City and to maintain public trust. Additionally, this policy will provide guidance to departments on improving cash handling skills, and thus, limit not only the City's losses, but also the City's involvement in investigation of losses of funds.

It is the recommendation of our independent auditors that our main policies be reviewed by the Director of Finance for updates in relation to our internal control practices and submitted to Council at least annually. In order to demonstrate our review, it is custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

This is a new policy; therefore, there are no recommended changes from last year's annual review.

POLICY WILL BE EMAILED TO COUNCIL NO LATER THAN MONDAY.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Resolution To Adopt Internal Controls & Cash Handling Policy	Resolution To Adopt Internal Controls & Cash Handling Policy.doc
2.	Internal Controls & Cash Handling Policy	20111117 Internal Controls & Cash Handling Policy.docx

RESOLUTION NO. ________________

A RESOLUTION ADOPT A CITY OF KENNEDALE INTERNAL CONTROLS & CASH HANDLING POLICY POLICY

WHEREAS, the Internal Controls & Cash Handling Policy sets fort procedures that govern the handling, deposit and safekeeping of City Cash; and

WHEREAS, the term "City Cash" applies to currency, coin, checks, money orders, credit, charge and debit card payments, other electronic payment media and other negotiable instruments payable in money to the City; and

WHEREAS, this policy establishes best practices and standards that can be applied across all City department that have the potential to handle cash; and

WHEREAS, employees that have been authorized to receive City Cash share the stewardship of financial assets for the City across departmental divisions; and

WHEREAS, the policy ensures that City Cash is accounted for and available for investment or an authorized expenditure; and

WHEREAS, the City Council has reviewed the City's Internal Controls & Cash Handling Policy.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE, TEXAS:

The City Council of the City of Kennedale, Texas hereby approves the Internal Controls & Cash Handling Policy dated November 17, 2011, attached hereto as "Exhibit A."

PASSED, ADOPTED AND APPROVED by the City Council of the City of Kennedale, Texas, this the 17th day of November 2011.

APPROVED:

____
Mayor, Bryan Lankhorst

ATTEST:

City Secretary, Amethyst Cirmo

OFFICIAL SEAL

CITY OF KENNEDALE

KENNEDALE
Finance Department

INTERNAL CONTROLS
&
CASH HANDLING POLICY

ORIGINALLY ADOPTED BY CITY COUNCIL: NOVEMBER 17, 2011

PREFACE

A Internal Controls & Cash Handling Policy provides ?.

It is our intent to bring forth this policy to Council for review at least annually. In order to demonstrate that review, it will be custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

SUBSEQUENT REVIEW & ADOPTION

I. PURPOSE

The goal of this Internal Controls & Cash Handling Policy is to ensure adequate internal controls by effectively safeguarding, depositing, and accounting for Cash on behalf of the City of Kennedale and to maintain public trust. Additionally, this policy will provide guidance to departments on improving cash handler (hereby referred to as "cashier/custodian") skill and accountability, therefore limiting not only the City's losses, but also the City's involvement in investigations of losses of funds. The term "Cash" applies to currency, coin, check, money order, credit card, electronic funds, and other negotiable instruments payable in money to the City.

II. ADMINISTRATIVE PROCEDURES

Enforcement of the cash management program is included but limited to the following:

A. A random drawer audit conducted under the direction of the Director of Finance.

B. Any deficiencies in regard to the set procedures will be reported to the Director of Finance and the City Manager in the form of a memorandum outlining the deficiencies.

C. The Director of Finance will notify the Department Head involved and explain these deficiencies, and the Department Head will be responsible for taking appropriate action to correct deficiencies.

D. If in a subsequent audit these deficiencies still exist, the Director of Finance will advise the Department Head that the deficiencies still exist.

E. The Director of Finance and the Department Head will notify the City Manager of the existing situation.

F. The City Manager will review the existing situation and may take appropriate action to resolve deficiencies and ensure that the procedures as outlined are administered properly.

III. DELEGATION OF AUTHORITY

A. The Director of Finance is authorized to promulgate rules for establishing procedures for the receipt, handling and deposit by City officers and employees of City Cash into the City Treasury for: the method of documentation on all such transactions; regular reporting to the Director of Finance; certifying and rescinding certification by the Director of Finance of all City officers and employees who are authorized to receive or handle City monies in the regular course of their employment or departmental activities; inspection of departmental cash records, including overages or shortages; inspection of departmental practices and procedures in handling City Cash; and contracting with agents to collect City Cash and their collection procedures. The Director of Finance may enforce these rules through on-site inspections; by rescinding certification of any officer or employee who fails to comply with the Director of Finance's procedures and, in the event of noncompliance by a department or office, requiring that payments to personnel be authorized by the Director of Finance, or deposited at his/her office.

B. The Director of Finance, as the City's banker, is required by law to receive, retain, and disburse all City revenue and keep detailed records of these transactions. The Director of Finance is charged with the responsibility of overseeing the proper receipting and to safeguard all City funds.

C. **The Director of Finance is responsible for the administration of the cash management program; however, he/she may delegate applicable responsibilities as appropriate. For the purposes of this policy, the term "Finance Department" refers to the Payroll & Accounting Specialist. In the Payroll & Accounting Specialist's absence, Finance Department duties will be delegated to the Director of Finance and/or Accounts Payable Clerk.**

D. Through certification, the responsibility and accountability of the daily collection of funds is delegated to the cashier/custodians.

IV. DUTIES OF CITY DEPARTMENT HEADS

The Director of any City department who anticipates receiving City Cash on a regular basis in the course of its activities shall:

A. Assign the receiving of City Cash only to those persons who are certified by the Director of Finance for performing these functions;

B. Collaborate with the Director of Finance to establish and maintain a system of procedures, documentation and reporting on receipts handling and deposit of City money;

C. Notify the Director of Finance and Police Department of any theft of City Cash immediately upon discovery. **Written notice shall be given no later than twenty-four hours after discovery**.

D. Allow the Director of Finance or designee to make on-site inspections and observe the processing of City Cash, and to make inspections of departmental collection records.

V. DUTIES OF CITY PERSONNEL

Any City officer or employee, who receives City Cash in the normal scope and course of his/her duties, shall:

A. Immediately turn in the Cash on the same day to the Finance Department no later than 5:00 p.m. **Note:** Several departments, such as the Police, Animal Control and Library Department collect cash through their individual department, and then submit it through Utility Billing's Cash Receipts to be later deposited to the Finance Department.

B. Comply with rules promulgated by the Director of Finance for handling and processing of City Cash and for documentation and dissemination of records, and with departmental internal procedures, established in conformity with the Director of Finance procedures;

C. Notify the employee's Department Head and Director of Finance of any loss or theft of City money immediately upon discovery. **Written notice shall be given to them no later than twenty-four hours after discovery;**

D. Be subject to disciplinary action, up to and including termination for failure to comply with each department's operating policies, Director of Finance's procedures and/or duties described in this policy.

VI. LIABILITY FOR LOSS

A. As between a department and its officers and the Director of Finance, the department has primary responsibility for care and liability for loss of City Cash in its custody until deposited in the City Treasury or entrusted to a custodian certified by the Director of Finance.

B. Compliance with the procedures approved by the Director of Finance establishes a presumption that a City department or office exercised due care in its custody and care of City Cash.

VII. CERTIFICATION OF CASHIERS & CUSTODIANS

A. Only persons who are certified by the Director of Finance shall receive and handle City Cash on a regular basis in the scope and course of their employment. As a condition to certification or maintenance of a certification, the Director of Finance will require that the cashier/custodian complete a course of instruction or training and/or pass an examination on: the secure processing of moneys, cash procedures and applicable departmental rules, and thereafter take refresher instruction or training at periodic intervals or when the need arises.

B. All employees who receive and handle City Cash on a regular basis in the scope and course of their employment shall complete such certification **within six (6) months of their appointment as a cashier and/or custodian**.

C. A signed Certificate of Responsibility from the cashier/custodian and supervisor must be obtained verifying receipt of this policy.

VIII. ESTABLISHMENT/INCREASE OF CASH FUNDS

All requests for the establishment of cash funds must be made to the Director of Finance. The Director of Finance will maintain a complete listing of all cash funds. The department location, cashier/custodian and the amount of the cash fund are to be maintained upon this written listing.

A. An initial request for establishment or request for increase should be submitted to the Director of Finance for the amount of the funds requested.

B. No funds are to be established out of cash receipts by any department.

C. Upon establishment of a cash fund, a cashier/custodian should be appointed by the Director of Finance. Cash funds must have one cashier/custodian responsible for the disbursement of cash. In the absence of the cashier/custodian, a designated individual should make all disbursements from the cash fund. Should it become necessary to change cashier/custodians, the Department Head should notify the Director of Finance and request an audit of the cash fund to be performed prior to transferring the cash fund to the new cashier/custodian.

IX. TERMINATION OF CASH FUNDS

A. The Department Head should notify the Director of Finance that the cash fund is to be closed and request that an audit be performed prior to closing the cash fund.

B. The Director of Finance will perform an audit of the cash fund. Any shortages or variances are to be investigated and resolved by the Department Head and the Director of Finance. **If the shortages or variances cannot be resolved, the Department Head is to provide a written explanation to the effect that a shortage or variance occurred, which he or she could not resolve, to the Director of Finance.**

C. Upon completion of the cash audit, the cashier/custodian should deposit any cash on hand with the Finance Department and provide a copy of the deposit slip to the Director of Finance with any outstanding vouchers.

D. The Director of Finance will provide the Finance Department with details of the expense accounts to be debited for preparation of a journal entry to close the cash fund. A copy of the details should also be attached to the journal entry as supporting documentation.

X. SECURITY OF CASH FUNDS

A. Cash funds are to be kept in locked boxes or drawers. The locked box is to be kept in a secure area, where only the designated cashier/custodian and the Department Head have keys and access to the funds.

B. Provisions should be made in departments where more than one cash fund exists to secure all funds which are not being utilized. Only the Department Head or his/her designated cashier/custodian should have access to an employee's cash fund in the event of their absence.

C. Only the person responsible for the cash fund and the Department Head should maintain keys and have access to the funds.

D. Bank bags must be locked and kept out of sight when transporting city funds for deposit to the Finance Department or Utility Billing Customer Service.

E. All funds must be reviewed randomly.

F. The use of surveillance cameras may be used to monitor city funds.

XI. REGULATION OF PETTY CASH FUNDS

Petty cash funds are available for making emergency or immediate purchases of items that are not easily obtained through normal purchasing channel. Petty cash funds are to be maintained only for this purpose, and no department shall possess a petty cash fund without establishing such a fund as outlined Section VIII: Establishment/Increase of Cash Funds.

A. Maintenance of Petty Cash Funds

1) Cash funds must have one custodian responsible for the disbursement of cash. In the absence of the custodian, only the Department Head or his/her designated custodian should make all disbursements from the petty cash fund.

2) Each cash fund should have a set amount of funds to be accounted for. The Finance Department will not process payment authorizations to reimburse petty cash if the request exceeds the established amount of the petty cash fund.

3) The petty cash fund is to be reconciled on a daily basis by the fund custodian.

4) **The cash custodian should process a payment authorization to reimburse their petty cash fund as necessary.** The payment authorization requesting reimbursement of petty cash is to be processed with enough lead-time to prevent the remaining petty cash funds from being depleted prior to the issuance of the reimbursement check. All check payments to reimburse the petty cash fund are to made payable to the City of Kennedale.

5) A petty cash voucher must be completed to support all disbursements of cash from the petty cash fund. The petty cash voucher must be completed in its entirety and approved by the Department Head prior to the disbursement of any cash from the custodian.

6) Each petty cash voucher must be accompanied by a receipt ticket upon reimbursement or return of unused funds.

7) Three (3) signatures are required on all petty cash vouchers. All petty cash vouchers must be signed by the employee receiving the cash and by the Department Head approving the transaction. The petty cash custodian will then sign the voucher as cash is actually disbursed from the fund.

8) **Employees are not to be reimbursed for sales tax**. It is the responsibility of the Department Head to ensure that employees are aware of the City's exempt status.

9) Petty cash in advance is not to be held by any employee longer than a twenty-four period. Receipts and used funds must be returned and be reconciled to vouchers within the twenty-four hour period.

10) Expenditures for purchases made from the petty cash fund are not to exceed $100.00. Purchases that exceed $100.00 should be purchased through normal purchasing process.

B. Prohibited expenses include the following:

1) Loans to employees;

2) IOUs for employee personal use;

3) Cashing personal, payroll and expense checks for the Department Head, petty cash custodian, or any other employees or City official; and

4) Traveling or training expenses, such as use of personal vehicle, parking and entertainment (these expenditures should be reimbursed by submitting the proper expense report form to Finance Department).

C. Documents Which Serve as Support for Disbursement of Petty Cash

1) A cash register receipt, provided that the date is current enough to support said purchase;

2) Cash receipt tickets from the place of purchase provided that the date is current, items purchased are listed and the ticket is signed by the employee as receiving said merchandise;

3) Proof of purchase in the form of a valid receipt provided the date is current and the type of the purchase or expenditure can be easily determined;

4) No refunds for purchases will be made without proof of purchase;

5) A petty cash voucher properly completed with authorizations for a cash advance.

XII. REGULATION OF CHANGE FUNDS

Changes funds, or cash drawers, are to be maintained for the purpose of making change. Change funds are not to be co-mingled with other cash funds. Change funds are to be maintained only for this purpose and no department shall possess a change fund without establishing such a fund with the Director of Finance.

A. Maintenance of a Change Fund

1) Each change fund should have one person responsible for that fund or drawer at any one given time. In the areas where more than one change fund is used, each employee should work out of his/her own change fund. Employees are not to work out of another employee's change fund.

2) Each change fund should be established for a set amount as outlined in this section, and this same amount should be maintained at all times. If an increase in a cash fund is needed, a request should be sent to the Director of Finance outlining the need and amount of funds requested is required.

3) **Change funds are not to be used as petty cash funds**. They are to be used only for making change.

4) Cash receipts are not to build up in a change fund. These receipts are to be removed and deposited as outlined in Section XIII: Regulation of Deposits.

5) Receipts for all cash should be utilized so that an audit may be done at any time and the amount of the change fund can be verified.

B. Cashing of Personal Checks from a Change Fund

1) Cashing of personal, payroll, and expense checks is strictly prohibited.

XIII. REGULATION OF DEPOSITS

The City of Kennedale collects cash through various departments in a decentralized manner; however, all cash is then turned in to the Finance Department for deposit to the bank no later than 5:00 p.m. on a daily basis. At no time shall cash be held. Furthermore, all deposits must be verified by the Finance Department. **Note:** Several departments, such as the Police, Animal Control and Library Department collect cash through their individual department, and then submit it through Utility Billing's Cash Receipts to be later deposited to the Finance Department.

A. Losses/Shortages/Overages

The Director of Finance makes a clear distinction between a "loss" and "shortage" of City money. This is determined by the cash handler's ability to obtain physical custody of the money and how that person safeguards the money. **Cashiers/custodians must report all losses to the Finance Department immediately.**

1) A shortage is an unintentional collection error such as a change making error. An overage occurs when a cash handler has collected too much money and cannot immediately return the excess to a specific customer.

2) On the other hand, a loss of City money is when a cash handler has obtained physical custody of money and then due to reasons like negligence, an act of God or an unlawful action, cannot deposit that money with the City.

3) An example of negligence is leaving City money unattended and not properly safeguarding that money from loss.

XIV. REGULATION OF RETURN CHECKS

A. All return checks will be charged a return check fee as determined by the City Council. The fee is applicable when a customer, taxpayer or employee check for payment of fees, fines, court costs, taxes, utilities or other charges has been dishonored by the maker's bank and returned to the City of Kennedale. The fee, plus the base amount of check, will be payable to the City by means of cash, money order or cashier's check.

B. If a customer, taxpayer or employee fails to honor the returned check within thirty days, the check will be turned over for collection or criminal sanctions, depending on which option is applicable.

XV. ACTION TAKEN IN EVENT OF THEFT

The danger of security and loss is a constant threat when handling money. Fund custodians are expected to safeguard City funds against loss. Custodians should be familiar with what to do in times of emergency. In these circumstances, **protecting human life should be the first concern.** Thefts are to be reported and handled in compliance with the City of Kennedale's Fraud Policy. Following the complete investigation performed in accordance with the Fraud Policy, the Director of Finance will conduct a review of the cash handling procedures and related internal controls and issue a report of his/her conclusions on improvements to cash handling procedures. The report will be discussed for implementation with the related department head in an effort to prevent future thefts from occurring.

XVI. ANNUAL REVIEW

The Director of Finance shall, at a minimum, submit proposed amendments of this policy to the City Council annually.

KENNEDALE
Finance Department

CITY OF KENNEDALE

CASH HANDLING CERTIFICATE OF RESPONSIBILITY
(Appendix A)

I have read and understand the City of Kennedale Internal Controls & Cash Handling Policy and have completed a course of instruction and training it. A copy of the Internal Controls & Cash Handling Policy has been provided to me. I agree to be held responsible and accountable for the handling of City funds according to the City of Kennedale's Internal Controls & Cash Handling Policy for the following purpose(s):

Please Initial

_______	Cashier/Custodian Fund	Amount Distributed	_______
_______	Petty Cash Fund	Amount Distributed	_______
_______	Change Fund	Amount Distributed	_______

I have also been informed and understand that surveillance camera equipment and other devices may be used to monitor City funds.

By signing below, I acknowledge that I have read and agree to the terms and conditions of this document, as well as the City of Kennedale's Internal Controls & Cash Handling Policy.

Training Date: ________________

Employee Name: ____
Employee Signature: ____
Date: ________________

Department Head Name: ____
Department Head Signature: ____
Date: ________________

Director of Finance Name: ____
Director of Finance Signature: ____
Date: ________________

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Staff Report to the Honorable Mayor and City Council

Date: November 17, 2011

Agenda Item No: CONSENT ITEMS - D.

I. Subject:

Discuss and consider A RESOLUTION ADOPTING AN AMENDED CITY OF KENNEDALE INVESTMENT POLICY.

II. Originated by:

Sakura Moten-Dedrick, Director of Finance & IT

III. Summary:

State law (Government Code, Chapter 2256: Public Funds Investment Act) requires the Council to review the City Investment Policy at least annually. Furthermore, it is also the recommendation of our independent auditors that our main policies be reviewed by the Director of Finance for updates in relation to our internal control practices and submitted to Council at least annually. In order to demonstrate our review, it is custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

There are no recommended changes at this time.

POLICY WILL BE EMAILED TO COUNCIL NO LATER THAN MONDAY.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Resolution To Amend Investment Policy	Resolution To Amend investment Policy.doc

2.	Investment Policy	20111117 Investment Policy.doc

RESOLUTION NO. ______________

A RESOLUTION ADOPTING AN AMENDED CITY OF KENNEDALE INVESTMENT POLICY

WHEREAS, on September 13, 2001, City Council adopted the document entitled, "Investment Policy," a framework that provides the guidelines by which the City of Kennedale will maintain the minimum amount of cash in its bank accounts to meet daily needs, and to provide protection for its principal and liquidity while receiving the highest yield possible from investing all temporary excess cash; and

WHEREAS, this serves to satisfy the statutory requirements of defining and adopting a formal investment policy and is authorized by the Public Funds Investment Act as amended; and

WHEREAS, the City Council has reviewed the City's Investment Policy.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE, TEXAS:

The City Council of the City of Kennedale, Texas hereby approves the amended Investment Policy dated November 17, 2011, attached hereto as "Exhibit A."

PASSED, ADOPTED AND APPROVED by the City Council of the City of Kennedale, Texas, this the 17th day of November 2011.

APPROVED:

____
Mayor, Bryan Lankhorst

ATTEST:

____
City Secretary, Amethyst Cirmo

OFFICIAL SEAL

CITY OF KENNEDALE

KENNEDALE
Finance Department

INVESTMENT POLICY

ORIGINALLY ADOPTED BY CITY COUNCIL: SEPTEMBER 13, 2001

PREFACE

State and local public laws govern the investment process for City funds. Laws cannot ensure that public officials manage public funds in a disciplined and prudent manner. The actions of public officials responsible for investing public funds must be guided by knowledge, skills, systems, policies, procedures and confidence that can be described only as professional discipline.

It is the policy of the City of Kennedale, that giving due regard to safety and risk of investments, all available funds shall be invested in conformance with these legal and administrative guidelines. All City funds shall be invested, to the maximum extent possible, at the highest rates obtainable at the time of the investment.

Effective cash management is recognized as essential to good fiscal management. An aggressive cash management and investment policy will be pursued. To that end, investment interest will be used as a viable and material revenue source for all City funds. Earnings from investments will be used in a manner that will best serve the interest of the City of Kennedale.

The City's portfolio shall be designed and managed in a manner responsive to the public trust and consistent with state and local law.

SUBSEQUENT REVIEW & ADOPTION

SEPTEMBER 12, 2002

OCTOBER 9, 2003

SEPTEMBER 9, 2004

SEPTEMBER 13, 2005

SEPTEMBER 14, 2006

SEPTEMBER 13, 2007

NOVEMBER 13, 2008

NOVEMBER 5, 2009

NOVEMBER 17, 2011

I. PURPOSE

Chapter 2256 of the Government Code, as amended from time to time by the Texas State Legislature ("Public Funds Investment Act") requires each city to adopt rules governing its investment practices and to define the authority of the investment official. The Investment Policy addresses the methods, procedures and practices which must be exercised to ensure effective and prudent fiscal management of the City of Kennedale funds.

II. SCOPE

The Investment Policy applies to the investment and management of all funds under direct authority of the City of Kennedale.

A. These funds are accounted for in the City's Annual Financial Report (CAFR) and include the following:

1) General Fund;

2) Special Revenue Funds;

3) Capital Project Funds;

4) Enterprise/Proprietary Funds;

5) Trust and Agency Funds, to the extent not required by law or existing contract to be kept segregated and managed separately;

6) Debt Service Funds, including reserves and sinking funds to the extent not required by law or existing contract to be kept segregated and managed separately; and

7) Any new fund created by the City, unless specifically exempted from this policy by the City or by law.

This investment policy shall apply to all transactions involving the financial assets and related activity of all the foregoing funds.

B. This policy excludes:

1) Employee Retirement and Pension Funds administered or sponsored by the City.

2) Defeased bond funds held in trust escrow accounts.

C. Review & Amendment: The City Council is required by state statute and by this investment policy to review this investment policy and investment strategies not less than annually and to adopt a resolution stating the review has been completed and recording any changes made to either the policy or strategy statements.

III. PRUDENCE

Investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived.

In determining whether an investment official has exercised prudence with respect to an investment decision, the determination shall be made taking into consideration:

1) the investment of all funds, or funds under the entity's control, over which the officer had responsibility rather than a consideration as to the prudence of a single investment; and

2) whether the investment decision was consistent with the written investment policy of the City.

All participants in the investment program will seek to act responsibly as custodians of the public trust. Investment officials will avoid any transaction that might impair public confidence in the City's ability to govern effectively. Investment officials shall recognize that the investment portfolio is subject to public review and evaluation. The overall program shall be designed and managed with a degree of professionalism which is worthy of the public trust. Nevertheless, the City recognizes that in a marketable, diversified portfolio, occasional measured losses are inevitable and must be considered within the context of the overall portfolio's investment rate of return.

Investment officials, acting in accordance with written procedures and exercising due diligence, shall not be held personally responsible for market price changes, provided that these deviations from expectations are reported immediately to the Director of Finance, the City Manager and the City Council of the City of Kennedale, and that appropriate action is taken by the investment officials and their oversight managers to control adverse developments.

IV. OBJECTIVES

A. Preservation & Safety of Principal: Preservation of capital is the foremost objective of the City. Each investment transaction shall seek first to ensure that capital losses are avoided, whether the loss occurs from the default of a security or from erosion of market value.

B. Liquidity: The City's investment portfolio will remain sufficiently liquid to enable the City to meet all operating requirements which can be reasonably anticipated. Liquidity will be achieved by matching investment maturities with forecasted cash flow requirements and by investing in securities with active secondary markets.

C. Yield: The investment portfolio of the City shall be designed to meet or exceed the average rate of return on 91-day U.S. treasury bills throughout budgetary and economic cycles, taking into account the City's investment risk constraints and the cash flow characteristics of the portfolio. Legal constraints on debt proceeds that are not exempt from federal arbitrage regulations are limited to the arbitrage yield of the debt obligation. Investment officials will seek to maximize the yield of these funds in the same manner as all other City funds. However, if the yield achieved by the City is higher than the arbitrage yield, positive arbitrage income will be averaged over a five year period, netted against any negative arbitrage income and the net amount shall be rebated to the federal government as required by federal regulations.

V. RESPONSIBILITY & CONTROL

A. Delegation: Management responsibility to establish written procedures for the operation of the investment program consistent with this investment policy has been assigned to the Director of Finance by the City Manager. Such procedures shall include explicit delegation of authority to persons responsible for the daily cash management operation, the execution of investment transactions, overall portfolio management and investment reporting. The Director of Finance may delegate the daily investment responsibilities to either an internal investment official or an external investment advisor in combination with an internal investment official. The Director of Finance and/or his representative(s) will be limited by conformance with all federal regulations, ordinances, and the statements of investment strategy.

B. Subordinates: All persons involved in investment activities shall be referred to as "Investment Officials." No person shall engage in an investment transaction, except as provided under the terms of this policy, the procedures established by the Director of Finance and the explicit authorization by the City Manager to withdraw, transfer, deposit and invest the City's funds. The Director of Finance shall be responsible for all transactions undertaken, and shall establish a system of controls to regulate the activities of subordinate Investment Officials.

C. Internal Controls: Internal controls shall be designed to prevent losses of public funds arising from fraud, employee error, misrepresentation by third parties, unanticipated changes in financial markets, or imprudent actions by investment officials. Controls deemed most important would include: control of collusion, separation of duties, third-party custodial safekeeping, avoidance of bearer-form securities, clear delegation of authority, specific limitations regarding securities losses and remedial action, written confirmation of telephone transactions, minimizing the number of authorized investment officials, and documentation of and rationale for investment transactions.

In conjunction with the annual independent audit, a compliance audit of management controls on investments and adherence to the Investment Policy and the Investment Strategy may be performed by the City's independent auditor.

D. Ethics & Conflicts of Interest: An investment officer of the City who has a personal business relationship with a business organization offering to engage in an investment transaction with the City shall file a statement disclosing that personal business interest. An investment officer who is related within the second degree of affinity or consanguinity to an individual seeking to sell an investment to the City shall file a statement disclosing that relationship with the Texas Ethics Commission and the City Council. For purposes of this section, an investment officer has a personal business relationship with a business organization if:

1) the investment officer owns 10 percent or more of the voting stock or shares of the business organization or owns $5,000 or more of the fair market value of the business organization;

2) funds received by the investment officer from the business organization exceed 10 percent of the investment officer's gross income for the previous year; or

3) the investment officer has acquired from the business organization during the previous year investments with a book value of $2,500 or more for the personal account of the investment officer.

Investment officials of the City shall refrain from personal and business activities involving any of the City's custodians, depositories, broker/dealers or investment advisors which may influence the officer's ability to conduct his duties in an unbiased manner. Investment officials will not utilize investment advice concerning specific securities or classes of securities obtained in the transaction of the City's business for personal investment decisions, will in all respects subordinate their personal investment transactions to those of the City, particularly with regard to the timing of purchase and sales and will keep all investment advice obtained on behalf of the City and all transactions contemplated and completed by the City confidential, except when disclosure is required by law.

E. Investment Training Requirements: The Director of Finance and the Investment officials shall attend at least one ten hour training session relating to their investment responsibilities within 12 months after assuming their duties. In addition to this ten hour requirement, each investment officer shall receive not less than ten hours of instruction in their investment responsibilities at least once during each two year period that begins on October 1st and consists of the two consecutive fiscal years after that date. The investment training session shall be provided by an independent source. For purposes of this policy, an "independent source" from which investment training shall be obtained shall include a professional organization, an institute of higher learning or any other sponsor other than a Business Organization with whom the City of Kennedale may engage in an investment transaction. Such training shall include education in investment controls, credit risk, market risk, investment strategies, and compliance with investment laws, including the Texas State Public Funds Investment Act.

VI. AUTHORIZED INVESTMENTS

A. Obligations, including letters of credit, of the United States or its agencies and instrumentalities.

B. Direct obligations of the State of Texas or its agencies and instrumentalities.

C. Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, the State of Texas, or the United States or its instrumentalities.

D. Obligations of states, agencies, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than "A" or its equivalent.

E. Joint Investment Pools of political subdivisions in the State of Texas which invest in instruments and follow practices allowed by current law. A pool must be continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating service.

F. Certificates of Deposit issued by a depository institution that has its main office or branch office in Texas;

   1) and such Certificates of Deposit are:

      - guaranteed or insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund or their successors; or

      - secured by obligations described in Article VI, sections A through D above.

   2) or such depository institution contractually agrees to place the funds in federally insured depository institutions in accordance with the conditions prescribed in Section 2256.010(b) of the Government Code (Public Funds Investment Act) as amended.

Certificates of Deposit brokered by an authorized broker/dealer that has its main office or a branch office in Texas who contractually agrees to place the funds in federally insured depository institutions in accordance with the conditions prescribed in Section 2256.010(b) of the Government Code (Public Funds Investment Act) as amended.

G. Fully collateralized repurchase or reverse repurchase agreements, including flexible repurchase agreements (flex repo), with a defined termination date secured by a combination of cash and obligations of the United States or its agencies and instrumentalities pledged to the City held in the City's name by a third party selected by the City. Repurchase agreements must be purchased through a primary government securities dealer, as defined by the Federal Reserve, or a financial institution doing business in Texas. The securities received for repurchase agreements must have a market value greater than or equal to 103 percent at the time funds are disbursed. All transactions shall be governed by a Master Repurchase Agreement between the City and the primary government securities dealer or financial institution initiating Repurchase Agreement transactions.

The term of any reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered. Money received under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.

H. No-load money market mutual funds if the mutual fund:

1) is registered with and regulated by the Securities and Exchange Commission;

2) has a dollar-weighted average stated maturity of 90 days or fewer; and

3) includes in its investment objectives the maintenance of a stable net asset value of one dollar for each share.

I. Investment instruments not authorized for purchase by the City of Kennedale include the following:

1) Banker's Acceptances;

2) "Bond" Mutual Funds;

3) Collateralized Mortgage Obligations of any type; and

4) Commercial Paper, except that the City can invest in local government investment pools and money market mutual funds that have commercial paper as authorized investments. A local government investment pool or money market mutual fund that invests in commercial paper must meet the requirements of Article VI, Sections E and H above.

J. If an investment in the City's portfolio becomes an unauthorized investment due to changes in the Investment Policy or the Public Funds Investment Act, or an authorized investment is rated in a way that causes it to become an unauthorized investment, the investment officials of the City shall review the investment and determine whether it would be more prudent to hold the investment until its maturity, or to redeem the investment. Officials shall consider the time remaining until maturity of the investment, the quality of the investment, and the quality and amounts of any collateral which may be securing the investment in determining the appropriate steps to take.

VII. PORTFOLIO AND INVESTMENT ASSET PARAMETERS

A. Bidding Process for Investments: It is the policy of the City to require competitive bidding for all investment transactions (securities and bank C.D.'s) except for:

1) transactions with money market mutual funds and local government investment pools (which are deemed to be made at prevailing market rates); and

2) treasury and agency securities purchased at issue through an approved broker/dealer.

At least three (3) bids or offers must be solicited for all other investment transactions. In a situation where the exact security being offered is not offered by other dealers, offers on the closest comparable investment may be used to establish a fair market price of the security. Security swaps are allowed, as long as maturity extensions, credit quality changes and profits or losses taken are within the other guidelines set forth in this policy.

B. Maximum Maturities: The City of Kennedale will manage its investments to meet anticipated cash flow requirements. Unless matched to a specific cash flow, the City will not directly invest in securities maturing more than five (5) years from the date of purchase.

C. Maximum Dollar-Weighted Average Maturity: Under most market conditions, the composite portfolio will be managed to achieve a one-year or less dollar-weighted average maturity. However, under certain market conditions investment officials may need to shorten or lengthen the average life or duration of the portfolio to protect the City. The maximum dollar-weighted average maturity based on the stated final maturity, authorized by this investment policy for the composite portfolio of the City shall be three (3) years.

D. Diversification: The allocation of assets in the portfolios should be flexible depending upon the outlook for the economy and the securities markets. In establishing specific diversification strategies, the following general policies and constraints shall apply.

1) Portfolio maturities and call dates shall be staggered in a way that avoids undue concentration of assets in a specific sector. Maturities shall be selected which provide for stability of income and reasonable liquidity.

2) To attain sufficient liquidity, the City shall schedule the maturity of its investments to coincide with known disbursements. Risk of market price volatility shall be controlled through maturity diversification such that aggregate realized price losses on instruments with maturities exceeding one (1) year shall not be greater than coupon interest and investment income received from the balance of the portfolio.

3) The following maximum limits, by instrument, are established for the City's total portfolio:

- Certificates of Deposit……………………………………………………25%
- Local Government Investment Pools *(See D.(5) below)*………100%.
- Money Market Mutual Funds *(See D.(5) below)*…………………100%
- Obligations of states, agencies, cities & other political subdivisions of any state………………………………………………………………………………..25%
- Repurchase Agreements (*See D. (4) below)*…………………………50%
- State of Texas Obligations & Agencies………………………………25%
- US Treasury & US Agency Callables…………………………………..25%
- US Government Agencies & Instrumentalities……………………100%
- US Treasury Notes/Bills……………………………………………………100%

4) The City shall not invest more than 50% of the investment portfolio in repurchase agreements, excluding bond proceeds and reserves.

5) The City shall not invest more than 50% of the investment portfolio in any individual money market mutual fund or government investment pool.

6) The investment committee shall review diversification strategies and establish or confirm guidelines on at least an annual basis regarding the percentages of the total portfolio that may be invested in securities other than U.S. Government Obligations. The investment committee shall review quarterly investment reports and evaluate the probability of market and default risk in various investment sectors as part of its consideration.

VIII. AUTHORIZED BROKER/DEALERS & FINANCIAL INSTITUTIONS

A. Investment officials will maintain a list of financial institutions and broker/dealers selected by credit worthiness, who are authorized to provide investment services to the City. These firms may include:

1) all primary government securities dealers; and

2) those regional broker/dealers who qualify under Securities and Exchange Commission Rule 15C3-1(uniform net capital rule), and who meet other financial credit criteria standards in the industry.

The investment officials may select up to six (6) firms from the approved list to conduct a portion of the daily City investment business. These firms will be selected based on their competitiveness, participation in agency selling groups and the experience and background of the salesperson handling the account. The approved broker/dealer list will be reviewed and approved along with this investment policy at least annually by the investment committee.

B. All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply the investment officials with the following:

1) Audited financial statements;

2) Proof of National Association of Securities Dealers (N.A.S.D.) certification, unless it is a bank;

3) Resumes of all sales representatives who will represent the financial institution or broker/dealer firm in dealings with the City; and

4) An executed written instrument, by the qualified representative, in a form acceptable to the City and the business organization substantially to the effect that the business organization has received and reviewed the investment policy of the City and acknowledges that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the City and the organization that are not authorized by the City's investment policy, except to the extent that this authorization is dependent on an analysis of the makeup of the City's entire portfolio or requires an interpretation of subjective investment standards.

IX. SAFEKEEPING & CUSTODY OF INVESTMENT ASSETS

All security transactions, including collateral for repurchase agreements entered into by the City shall be conducted using the delivery vs. payment (DVP) basis. That is, funds shall not be wired or paid until verification has been made that the correct security was received by the safekeeping bank. The only exceptions to DVP settlement shall be wire transactions for money market funds and government investment pools. The safekeeping or custody bank is responsible for matching up instructions from the City's investment officials on an investment settlement with what is wired from the broker/dealer, prior to releasing the City's designated funds for a given purchase. The security shall be held in the name of the City or held on behalf of the City in a bank nominee name. Securities will be held by a third party custodian designated by the investment officials and evidenced by safekeeping receipts or statements. The safekeeping bank's records shall assure the notation of the City's ownership of or explicit claim on the securities. The original copy of all safekeeping receipts shall be delivered to the City. A safekeeping agreement must be in place which clearly defines the responsibilities of the safekeeping bank.

X. COLLATERAL

The City's depository bank shall comply with Chapter 2257 of the Government Code, Collateral for Public Funds, as required in the City's bank depository contract.

A. Market Value: The Market Value of pledged Collateral must be equal to or greater than 102% of the principal and accrued interest for cash balances in excess of the Federal Deposit Insurance Corporation (FDIC) or National Credit Union Share Insurance Fund (NCUSIF) insurance coverage. The Federal Reserve Bank and the Federal Home Loan Bank are designated as custodial agents for collateral. An authorized City representative will approve and release all pledged collateral. The securities comprising the collateral will be marked to market on a monthly basis using quotes by a recognized market pricing service quoted on the valuation date, and the City will be sent reports monthly.

B. Collateral Substitution: Collateralized investments often require substitution of collateral. The Safekeeping bank must contact the City for approval and settlement. The substitution will be approved if its value is equal to or greater than the required collateral value.

C. Collateral Reduction: Should the collateral's market value exceed the required amount, the Safekeeping bank may request approval from the City to reduce Collateral. Collateral reductions may be permitted only if the collateral's market value exceeds the required amount.

D Letters of Credit: Letters of Credit, as defined in Article VI (A), are acceptable collateral for Certificates of Deposit. Upon the discretion of the City, a Letter of Credit can be acceptable collateral for City funds held by the City's bank depository.

XI. INVESTMENT REPORTS

A. Reporting Requirements: The investment officials shall prepare a quarterly investment report in compliance with section 2256.023 of the Public Funds Investment Act of the State of Texas. The report shall be submitted to the City Council and the Investment Committee within 30 days following the end of the quarter.

B. Investment Records: An investment official designated by the City Manager shall be responsible for the recording of investment transactions and the maintenance of the investment records with reconciliation of the accounting records and of investments carried out by an accountant. Information to maintain the investment program and the reporting requirements, including pricing or marking to market the portfolio, may be derived from various sources such as: broker/dealer research reports, newspapers, financial on-line market quotes, direct communication with broker/dealers, market pricing services, investment software for maintenance of portfolio records, spreadsheet software, or external financial consulting services relating to investments.

C. Auditor Review: The City's independent external auditor may formally review the quarterly investment reports annually to ensure compliance with the State of Texas Public Funds Investment Act, and any other applicable State Statutes.

XII. INVESTMENT COMMITTEE

A. Members: An Investment Committee, consisting of the City Manager or designee and the Director of Finance, shall review the City's investment strategies and monitor the results of the investment program at least quarterly. This review can be done by reviewing the quarterly written reports and by holding committee meetings as necessary. The committee will be authorized to invite other advisors to attend meetings as needed.

B. Scope: The Investment Committee shall include in its deliberations, such topics as economic outlook, investment strategies, portfolio diversification, maturity structure, potential risk to the City's funds, evaluation and authorization of broker/dealers, rate of return on the investment portfolio, review and approval of training providers and compliance with the investment policy. The Investment Committee will also advise the City Council of any future amendments to the investment policy that are deemed necessary or recommended.

XIII. INVESTMENT STRATEGY STATEMENTS

The City of Kennedale portfolio will be structured to benefit from anticipated market conditions and to achieve a reasonable return. Relative value among asset groups shall be analyzed and pursued as part of the investment program within the restrictions set forth by the investment policy. The City of Kennedale maintains portfolios which utilize four specific investment strategy considerations designed to address the unique characteristics of the fund groups represented in the portfolios.

A. Operating Funds

1) Suitability - All investments authorized in the Investment Policy are suitable for Operating Funds.

2) Preservation & Safety of Principal - All investments shall be high quality securities with no perceived default risk.

3) Liquidity - Investment strategies for the pooled operating funds have as their primary objective to assure that anticipated cash flows are matched with adequate investment liquidity. The dollar-weighted average maturity of operating funds, based on the stated final maturity date of each security, will be calculated and limited to one year or less. Constant $1 NAV investment pools and money market mutual funds shall be an integral component in maintaining daily liquidity. Investments for these funds shall not exceed an 18-month period from date of purchase.

4) Marketability - Securities with active and efficient secondary markets will be purchased in the event of an unanticipated cash requirement.

5) Diversification - Maturities shall be staggered throughout the budget cycle to provide cash flows based on anticipated needs. Investment risks will be reduced through diversification among authorized investments.

6) Yield - The City's objective is to attain a competitive market yield for comparable securities and portfolio constraints. The benchmark for Operating Funds shall be the 91 day Treasury bill.

B. Reserve & Deposit Funds

1) Suitability - All investments authorized in the Investment Policy are suitable for Reserve and Deposit Funds.

2) Preservation & Safety of Principal - All investments shall be high quality securities with no perceived default risk.

3) Liquidity - Investment strategies for reserve and deposit funds shall have as the primary objective the ability to generate a dependable revenue stream to the appropriate reserve fund from investments with a low degree of volatility. Except as may be required by the bond ordinance specific to an individual issue, investments should be of high quality, with short-to-intermediate-term

maturities. The dollar-weighted average maturity of reserve and deposit funds, based on the stated final maturity date of each security, will be calculated and limited to three years or less.

4) Marketability - Securities with active and efficient secondary markets will be purchased in the event of an unanticipated cash requirement.

5) Diversification - Maturities shall be staggered throughout the budget cycle to provide cash flows based on anticipated needs. Investment risks will be reduced through diversification among authorized investments.

6) Yield - The City's objective is to attain a competitive market yield for comparable securities and portfolio constraints. The benchmark for Reserve and Deposit Funds shall be the 91 day Treasury bill.

C. Bond & Certificate Capital Project Funds & Special Purpose Funds

1) Suitability - All investments authorized in the Investment Policy are suitable for Bond and Certificate Capital Project Funds and Special Purpose Funds.

2) Preservation & Safety of Principal - All investments shall be high quality securities with no perceived default risk.

3) Liquidity - Investment strategies for bond and certificate capital project funds, special projects and special purpose funds portfolios will have as their primary objective to assure that anticipated cash flows are matched with adequate investment liquidity. The stated final maturity dates of investments held should not exceed the estimated project completion date or a maturity of no greater than five years. The dollar-weighted average maturity of bond and certificate capital project funds and special purpose funds, based on the stated final maturity date of each security, will be calculated and limited to three years or less.

4) Marketability - Securities with active and efficient secondary markets will be purchased in the event of an unanticipated cash requirement.

5) Diversification - Maturities shall be staggered throughout the budget cycle to provide cash flows based on anticipated needs. Investment risks will be reduced through diversification among authorized investments.

6) Yield - The City's objective is to attain a competitive market yield for comparable securities and portfolio constraints. The benchmark for Bond and Certificate Capital Project Funds and Special Purpose Funds shall be the 91 day Treasury bill.

A secondary objective of these funds is to achieve a yield equal to or greater than the arbitrage yield of the applicable bond or certificate.

D. Debt Service Funds

1) Suitability - All investments authorized in the Investment Policy are suitable for Debt Service Funds.

2) Preservation & Safety of Principal - All investments shall be high quality securities with no perceived default risk.

3) Liquidity - Investment strategies for debt service funds shall have as the primary objective the assurance of investment liquidity adequate to cover the debt service obligation on the required payment date. Securities purchased shall not have a stated final maturity date which exceeds the debt service payment date. The dollar-weighted average maturity of debt service funds, based on the stated final maturity date of each security, will be calculated and limited to one year or less.

4) Marketability - Securities with active and efficient secondary markets will be purchased in the event of an unanticipated cash requirement.

5) Diversification - Maturities shall be staggered throughout the budget cycle to provide cash flows based on anticipated needs. Investment risks will be reduced through diversification among authorized investments.

6) Yield - The City's objective is to attain a competitive market yield for comparable securities and portfolio constraints. The benchmark for Debt Service Funds shall be the 91 day Treasury bill.

XIV. ANNUAL REVIEW

The Director of Finance shall, at a minimum, submit proposed amendments of this policy to the City Council annually.

APPENDIX A

CITY OF KENNEDALE, TEXAS
TEXAS PUBLIC FUNDS INVESTMENT ACT
CERTIFICATION BY BUSINESS ORGANIZATION

This certification is executed on behalf of the City of Kennedale, Texas and ______________________________ (the Business Organization) pursuant to the Public Funds Investment Act, Chapter 2256, Texas Government Code, (the Act) in connection with investment transactions conducted between the Investor and the Business Organization.

The undersigned Qualified Representative of the Business Organization hereby certifies on behalf of the Business Organization that:

The undersigned is a Qualified Representative of the Business Organization offering to enter an investment transaction with the City of Kennedale, Texas (as defined in the Act); and

The Qualified Representative of the Business Organization has received and reviewed the Investment Policy furnished by the City of Kennedale, Texas; and

The Qualified Representative of the Business Organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the Business Organization and the City of Kennedale, Texas that are not authorized by the investment policy of the City of Kennedale, Texas, except to the extent that this authorization is dependent on an analysis of the makeup of the City of Kennedale, Texas entire portfolio or requires an interpretation of subjective investment standards.

Qualified Representative of the Business Organization

____

Name ____

Title ____

Date ____

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Staff Report to the Honorable Mayor and City Council

Date: November 17, 2011

Agenda Item No: CONSENT ITEMS - E.

I. Subject:

Discuss and consider A RESOLUTION ADOPTING AN AMENDED CITY OF KENNEDALE PROCUREMENT CARD PROGRAM POLICY.

II. Originated by:

Sakura Moten-Dedrick, Director of Finance & IT

III. Summary:

The City of Kennedale Purchasing Policy allows the City to utilize cooperative purchasing programs with the approval of City Council. Furthermore, city purchases made through an approved Cooperative Purchasing Program satisfy state law competitive bid requirements and any internal quote process.

The State of Texas or Texas Procurement and Support Services (TPASS) orginally secured a contract with JPMorgan Chase to provide MasterCard corporate travel and procurement charge card services for state agencies, universities and eligible State of Texas CO-OP entities from June 13, 2003 through August 31, 2010. Council approved the City's participation in 2010. Since this time, the State has secured another vendor; however, the City elected to remain with JPMorgan Chase through a cooperative purchasing program agreement with the City of Fort Worth to receive the same type of benefits that we did while on the state contract.

Our JPMorgan Chase Procurement Card Program continues to allow for more flexibility of use, simplified tracking and invoicing, streamlining of payments, enhanced customer service, and online access to view charges and make changes to organizational features and settings. In addition, the Program Administrator (Director of Finance) has the ability to restrict card usage based on necessity, as well as issue out temporary cards to employees specifically for travel.

It is the recommendation of our independent auditors that our main policies be reviewed by the Director of Finance for updates in relation to our internal control practices and submitted to Council at least annually. In order to demonstrate our review, it is custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

There are no recommended changes at this time.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Resolution To Amend Procurement Card Program Policy	Resolution To Amend Procurement Card Program Policy.doc
2.	Procurement Card Program Policy	20111117 Procurement Card Program Policy.docx

RESOLUTION NO. _______________

A RESOLUTION AMENDING A CITY OF KENNEDALE PROCUREMENT CARD POLICY

WHEREAS, the City Council allows the City to utilize cooperative purchasing programs with the approval of City Council; and.

WHEREAS, on January 24, 2003, the City Council adopted the document entitled, “Procurement Card Program Policy,” a guide to aid in establishing a more efficient, cost-effective method of purchasing and paying for small dollar transactions, as well as high volume, repetitive purchases, and

WHEREAS, the City Council has reviewed the Procurement Card Program Policy.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE, TEXAS:

> The City Council of the City of Kennedale, Texas hereby approves the Procurement Card Program Policy dated November 17, 2011, attached hereto as “Exhibit A.”

PASSED, ADOPTED AND APPROVED by the City Council of the City of Kennedale, Texas, this the 17th day of November 2011.

APPROVED:

____
Mayor, Bryan Lankhorst

ATTEST:

____
City Secretary, Amethyst Cirmo

OFFICIAL SEAL

CITY OF KENNEDALE

KENNEDALE
Finance Department

PROCUREMENT CARD PROGRAM POLICY

ORIGINALLY ADOPTED BY CITY COUNCIL: JANUARY 24, 2003

PREFACE

The Procurement Card Program Policy aids in establishing a more efficient, cost-effective method of purchasing and paying for small dollar transactions, as well as high volume, repetitive purchases. The Procurement Card Program is as an alternative to the traditional purchasing process (departmental purchase orders) for supplies, materials and travel. Furthermore, the Procurement Card can be used with any supplier that accepts MasterCard as a form of payment.

If used to its potential, the Procurement Card Program will result in a significant reduction in the volume of purchase orders and related documentation, including invoices and checks. In addition, corresponding work processes associated with ordering and check writing will be eliminated.

It is our intent to bring forth this policy to Council for review at least annually. In order to demonstrate that review, it will be custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

SUBSEQUENT REVIEW & ADOPTION

JUNE 10, 2010

NOVEMBER 17, 2011

I. PURPOSE

The Procurement Card Program (herein referred to as the "Program") is intended to streamline and simplify the Purchasing and Accounts Payable functions by eliminating waste and low value activities. The Procurement Card (herein referred to as the "Card") is a tool that reduces transaction costs, facilitates timely acquisition of materials and supplies, automates data flow for accounting purposes and offers flexible controls to help ensure proper usage.

The Program is designed as an alternative to a variety of processes including petty cash, check requests and low dollar purchase orders. It is not intended to avoid or bypass appropriate procurement of payment procedures. Rather, the Program complements the existing processes available. The Card is a MasterCard credit card that is issued by JP Morgan Chase. Some minimal record keeping is essential to ensure the successful use of the Card. This is not an extraordinary requirement; standard payment policies require retention of receipts, etc.

This Procurement Card Program Policy provides information about the process, the types of purchases that can and cannot be made, records that must be maintained and reconciled for each cycle, and a variety of other program information.

Every time the Card is utilized, city funds are committed. Therefore, this is a responsibility that should not be taken lightly. **Each cardholder is responsible for all charges made to his/her specific card, and any intentional misuse or fraudulent abuse may result in disciplinary action, up to and including dismissal**.

The Card has no impact on personal credit. Although the Card lists an individual's name, the card is actually issued to the City of Kennedale.

II. DEFINITIONS

For the purpose of this policy the following definitions apply:

A. <u>Program Administrator</u> – Individual who has a direct relationship with the Bank and is the City's point of control for the Program, monitors all usage of the card, and is the point of contact for any cardholder questions or problems. All procurement card requests, issues and cancellations must go through the Program Administrator. The Program Administrator and his/her designated assistant are knowledgeable on all the procedures in the Procurement Card Program Policy and are responsible for ensuring all cardholders are properly trained in the use of the Card before it is issued. The Program Administrator will also report to the City Manager any Cardholder infractions or potential infractions. **For the purposes of this program, the Director of Finance will serve as the Program Administrator, with the Accounts Payable Clerk acting as the designated backup until such time that the City Manager chooses to designate differently.** The Director of Finance is responsible for developing written guidelines on accounting, cash handling, and other financial matters in relation to the Program.

B. Approver – The Department Head or his/her designee is responsible for designating cardholders and approvers. The Department Head shall designate which employees will be issued a card, and with the guidance of the Finance Department, determine what transaction and merchant limits shall apply to the Card's use. The Department Head ensures that purchases are authorized and within City policies. Departments may implement more stringent internal authorization procedures that its cardholders must follow in order to make purchases with the Card. In addition, activity reports are available for additional review by the Department Head if so requested.

C. Cardholder - Individual who has been issued the Card and who is authorized to make purchases in accordance with these procedures.

D. Single Purchase/Transaction Limit - A dollar limitation of purchasing authority delegated to a Cardholder, which represents the maximum amount that can be charged to the Card for a single purchase or transaction. This dollar limit may vary from Cardholder to Cardholder.

E. Daily Limit - A dollar limitation of purchasing authority delegated to a Cardholder, which represents the maximum amount that can be charged to the Card during a period of one regular twenty-four (24) hour day. This dollar limit may vary from Cardholder to Cardholder.

F. Cycle/Monthly Limit - A dollar amount limitation of purchasing authority delegated to a Cardholder, which represents the maximum amount that can be charged to the Card during a period of one calendar month. This dollar limit may vary from Cardholder to Cardholder.

G. Vender - A company from which a Cardholder is purchasing materials and/or equipment or services under the provisions of this procedure. Also referred to as supplier, merchant, etc.

III. PROCEDURES

A. Obtaining The Card - Only full/part-time employees of the City of Kennedale are eligible to receive the Card. Contractors or temporary employees are **not** eligible, unless authorized by the City Manager.

1) Department Head must request the Card via the *Procurement Card Enrollment Form (Appendix A).*

2) If needed, the Department Head may consult with the Program Administrator to determine appropriate transaction limits.

3) The Program Administrator will request the issue of the Card from JPMorgan Chase.

4) Upon receipt of the Card, the Program Administrator will conduct Cardholder training, and upon completion, the Cardholder will sign the *Procurement Cardholder Acknowledgement Form (Appendix B)*.

5) The new cardholder will also be instructed as to where he/she can find the Procurement Card Program Policy and Purchasing Policy for reference purposes.

B. Activating The Card - The Cardholder must call (800) 316-6056 to activate the Card before using it.

C. Authorized Use Of The Card - The Cardholder is responsible for the security of their Card, and the transactions made against it. When a Cardholder receives his/her Card, only that Cardholder is authorized to use that card. The Cardholder may make transactions on behalf of others in their Department. However, the Cardholder is responsible for all use of his/her Card. **At no time should the Cardholder loan or let other individuals utilize his/her card**.

1) The Card is to be used in the conduct of the City's business only. The use of the Card to acquire or purchase goods and services for other than official use of the City is fraudulent use and may subject the employee to disciplinary action, up to and including dismissal as specified in the City's Personnel Policy and/or criminal prosecution.

2) The total value of a transaction shall not exceed a Cardholder's single purchase limit.

3) The Cardholder will retain vendor's receipts and/or records of telephone, Internet, and/or mail orders and file for future reconciliation of the Card statement.

D. Unauthorized Use Of The Card - The credit card shall **not** be utilized for any of the following:

1) Personal identification or purchases, to include the payment of spouse/family expenses incurred while traveling. Only City business expenses are allowable, and the Cardholder should pay personal expenses separately.

2) A purchase that exceeds the Cardholder's single, daily, and/or monthly purchase limits;

3) Cash refunds and advances;

a. When an item is returned, the vendor shall issue the Cardholder a credit, which should appear on a subsequent statement. **Under no circumstances should the Cardholder accept cash in lieu of a credit to the credit card**

account. However, should cash be received, a Cardholder must return it to the City. Otherwise, the City is authorized to deduct any applicable charges from the payroll of the employee if not otherwise reimbursed.

4) Any purchase of goods/services or at a merchant type not considered prudent or of good judgment;

5) Fuel and/or maintenance purchases on any **personal** vehicles whether for city purpose or not (city owned vehicles are authorized);

6) Alcohol or liquor of any kind;

7) Separate, sequential, and component purchases or any transaction made with the intent to circumvent the City's Purchasing Policy or state law;

8) Any other purchase specifically excluded in the City's Purchasing Policy.

E. Cardholder Revocation - The Card is subject to revocation at any time at the discretion of the Department Head. The Program Administrator, if not the Director of Finance, may also recommend to the Director of Finance and Department Head that the Card be revoked upon indication of any violation of the Procurement Card Program Policy. When a Card is revoked, changes are made on-line and take effect immediately. The Program Administrator is further authorized to temporarily suspend use of the Card via electronic methods if unauthorized use is discovered and such use poses a threat to internal financial controls.

F. Cardholder Separation – Prior to separation from the City of Kennedale, the Cardholder shall surrender the Card and all current credit card receipts and documentation to his/her Approver. Upon receipt, the Approver will follow the steps outlined under Section VI: Cardholder Statement Review & Payment Submission, and then forward the Card to the Program Administrator to be destroyed.

IV. CARDHOLDER LIMITS

As part of a Cardholder's application, the Department Head will identify which levels of transaction and cycle spending limits best accommodates the department and City's business requirements. **Suggested levels** for limits are outlined below; however, selection may vary based on particular need or function.

Position	Single Limit	Daily Limit (2 x Single)	Monthly Limit
Line Staff	$250	$500	$1,000
Supervisor	$500	$1,000	$2,500
Dept Head	$1,000	$2,000	$5,000
City Manager	$15,000	$30,000	$50,000

V. CARDHOLDER PURCHASES

A. Sales Tax - As a tax-exempt government agency, the City of Kennedale does **not** pay sales tax on applicable items. The City's sales tax identification number is provided on the face of the Card, and Cardholders can request a copy of the City's tax exemption certificate from Accounts Payable should it be needed. Cardholders are responsible for ensuring that the vendor does not include sales tax in the transaction, unless an item is subject to sales tax. If tax is included in error, the Cardholder may be responsible for reimbursing the tax amount to the City. Contact Accounts Payable for questions in regards to which purchases are subject to tax.

B. Returns - Each Cardholder is responsible for coordinating returns with the vendor and ensuring a proper credit slip is obtained. Credit shall be issued to the Cardholder account. - **Under no circumstances should the Cardholder accept cash in lieu of a credit to the credit card account. However, should cash be received, a Cardholder must return it to the City. Otherwise, the City is authorized to deduct any applicable charges from the payroll of the employee if not otherwise reimbursed.**

C. Point Of Sale Decline - Should a Cardholder be declined at the point of sale for any reason, please contact either the JP Morgan Chase Bank Customer Service Center 24 hours a day, 7 days a week at (800) 316-6056 or the Program Administrator. Every effort will be made to determine why the transaction was declined.

D. Restricted Vendors - The Program may restrict certain types of vendors based on their use. The restriction of vendors is accomplished by the Program Director upon the Cardholder's application; therefore, if you present the Card for payment to any of these "opted-out" vendors, the authorization request will be declined. Should an authorization request be declined, please contact either the JP Morgan Chase Bank Customer Service Center 24 hours a day, 7 days a week at (800) 316-6056 or the Program Administrator. Once it is determined that the authorization request was denied due to vendor type/use restriction, the Program Administrator will work with the Cardholder to ascertain whether or not the restriction should remain or be lifted.

E. Vendor Refusal Of Card - Vendors are to be encouraged to become involved in the Program so that Cardholders can leverage their purchasing efforts most effectively. Vendors may contact their local bank or financial institution to become credit card capable. For those vendors that are unwilling to participate in the Program, alternative sources should be found. Cardholders may also feel free to make contact with any vendors he/she would like to begin accepting the Card.

F. Errors & Disputes - In the case of an error, first contact the vendor directly and try to reach an agreement. Most disputes can be resolved in this manner. If you are unable to reach an agreement with the vendor, complete a *Procurement Card Transaction Dispute*

Form and send it to JP Morgan Chase Bank. All disputes must be submitted in writing to JP Morgan Chase Bank within **sixty (60) days** of the statement date via the following:

1) Fax (847) 931-8861; or

2) Mail to: JP Morgan Chase Commercial Card, Attention: Disputes Department, PO Box 2015, Elgin, Illinois 60121.

G. Lost Or Stolen Cards - If a card is lost or stolen, **both** JP Morgan Chase Bank's Customer Service and the Program Administrator should be notified immediately. The Customer Service Center is available 24 hours a day, 7 days a week and can be contacted at (800) 316-6056. A *Procurement Card Lost/Stolen Card Notification Form* should also be completed as soon as possible and submitted to the Program Administrator. A new card shall be promptly issued to the Cardholder after the reported loss or theft. A card that is subsequently found by the Cardholder after being reported lost shall be destroyed.

VI. CARDHOLDER STATEMENT REVIEW & PAYMENT SUBMISSION

Each Cardholder is responsible for the accurate review of his/her monthly statement, as well as the timely submission to Accounts Payable with all appropriate signatures, supporting receipts and documentation to pay his/her bill.

Monthly, each Cardholder will receive a statement(s) from Accounts Payable identifying each transaction made against the Card during the prior billing cycle. While the cycle cut-off date may vary, it generally occurs during the **first week of every month (5th)**. The City of Kennedale is required to pay JP Morgan Chase Bank in full each month **no later than the 30th calendar day after statement close** for all purchases made during the prior billing cycle. Therefore, please pay specific attention to the request deadline stipulated by Accounts Payable upon initial dissemination of the statement.

The statement (with attached receipts/documentation) must be reconciled against Cardholder retained receipts/documentation, signed by the Cardholder as proof of reconcilement, and then forwarded to the Department Head or his/her designee for approval.

Always obtain a receipt when using the Card. Furthermore, detailed receipts must be presented for all meal reimbursements (i.e., credit card charge slip will **not** be considered adequate documentation). Alcoholic beverage purchases are strictly prohibited from card usage, and the purpose of the business meal, and the names of those in attendance must also be indicated.

If the Cardholder misplaces or loses a receipt, a *Procurement Card Missing/Lost Receipt Form* must accompany the Cardholder's request for payment. Recurring instances of misplaced or lost receipts may result in the revocation of Cardholder privileges.

If the Cardholder is unable to provide adequate details concerning a receipt, the Cardholder

will be responsible for reimbursing the City of Kennedale for all applicable charges, and the City is authorized to deduct any applicable charges from the payroll of the employee if not otherwise reimbursed.

NOTE: During the month of September, purchases may be restricted to facilitate the Fiscal Year end closing. It is imperative that careful planning is done to ensure that appropriate levels of supplies are on hand to last until the beginning of the new Fiscal Year.

VII. CARDHOLDER RECORD KEEPING

A. Any Means - Whenever a credit card purchase is made, either over-the-counter or by other means, documentation shall be obtained as proof of purchase. Such documentation will be used to verify the purchases listed on the Cardholder's monthly statement of account.

B. Over-the-Counter - When the purchase is made over-the-counter, the Cardholder shall retain the invoice and "customer copy" of the charge receipt. The Cardholder is responsible for checking that the vender lists the quantity and fully describes the item(s) prior to the Cardholder signing the slip.

C. Internet - When the purchase is made over the Internet, the Cardholder shall print a copy of the receipt and order confirmation before exiting the site.

D. Telephone - When a purchase is made over the telephone, the Cardholder shall have the vendor fax them a copy of the receipt.

E. Mail - When the purchase is made by mail, the Cardholder shall retain all confirmations and shipping documentation.

VIII. CARDHOLDER SECURITY

It is the Cardholder's responsibility to safeguard the Card and account number to the same degree that a Cardholder safeguards his/her personal credit information. A violation of this trust may result in that Cardholder having his/her card withdrawn and possible disciplinary action.

If a card is lost or stolen, **both** JP Morgan Chase Bank's Customer Service and the Program Administrator should be notified immediately. The Customer Service Center is available 24 hours a day, 7 days a week and can be contacted at (800) 316-6056. A *Procurement Card Lost/Stolen Card Notification Form* should also be completed as soon as possible and submitted to the Program Administrator. A new card shall be promptly issued to the Cardholder after the reported loss or theft. A card that is subsequently found by the Cardholder after being reported lost shall be destroyed.

A Cardholder may have two (2) cards replaced due to loss or theft. Any additional requests may result in the revocation of Cardholder privileges. If a Cardholder is determined to be negligent in regards to security, replacement cards will not be issued.

IX. JP MORGAN CHASE

A. Payment - The Card is a corporate pay arrangement with JP Morgan Chase. Account balances will be **paid in full each month no later than the 30th calendar day after statement close**. The Program Administrator will receive a centralized statement detailing all Cardholder activity. A copy of the centralized statement will be provided to each applicable Cardholder to review, complete the appropriate form, obtain appropriate signature(s) and return all attached receipts and documentation. Accounts Payable will designate a pay request deadline to Cardholders upon initial dissemination of the centralized statement in order to ensure payment will be made to JP Morgan Chase as agreed. Cardholders should **not** receive a separate cardholder statement directly from JP Morgan Chase. Should this occur, please disregard the statement and notify Accounts Payable.

B. Audit – All cardholder activity is subject to audit by Corporate Audit, the Program Administrator, his or her designee, Approvers, and any other appropriate City of Kennedale personnel or outside audit firm. Audits help ensure adherence to the Program's policies and procedures.

C. Customer Service – There are several methods or avenues available for assistance.

1) *For Individual Cardholder*: The Program is serviced using a team approach with JP Morgan Chase Bank's Customer Service Center, which can be reached at (800) 316-6056. This center is available 24 hours a day, 7 days a week to assist the Cardholder with general questions about the procurement card account. If a card is lost or stolen, **both** Customer Service and the Program Administrator should be notified immediately. A *Procurement Card Lost/Stolen Notification* Form should also be completed as soon as possible and submitted to the Program Administrator.

2) *For Program Administrator Only*: The Program Coordinator Service Team for the State of Texas is a specialized group that provides service strictly to Program Administrators and helps with day-to-day activities and updating of Merchant Account Code (MAC) authorizations. This group can be contacted at (888) 508-9758, (888) 297-0785 fax, or email ccs-public-sector@jpmchase.com. The Program Coordinators are available from 7:00 AM to 6:00 PM CST. When calling the Program Coordinators, please be prepared to provide a Company Number, Agent Number and Security Identifier. **Individual Cardholders should not utilize this phone number.**

3) *For Program Administrator Only*: Client Application Support provides assistance with the Smart Data On-Line software application. This group answers questions about functionality, resets Program Administrator passwords and helps trouble shoot any other application related issues. Client Application Support can be contacted at (877) 967-1100, Option 2.

X. ANNUAL REVIEW

The Director of Finance shall, at a minimum, submit proposed amendments of this policy to the City Council annually.

CITY OF KENNEDALE
PROCUREMENT CARD ENROLLMENT FORM
(Appendix A)

I. EMPLOYEE/CARDHOLDER INFORMATION

Name: ____ Social Security: ____________________________________

Department: __________________________________ Division: _______________________________

II. CARD LIMITS: MAXIMUM PURCHASE LIMITS: Please note that these are suggested levels based on position; however, selection may vary based on particular need or function.

Position	Single Limit	Daily Limit (2 x Single)	Monthly Limit
Line Staff	$250	$500	$1,000
Supervisor	$500	$1,000	$2,500
Dept Head	$1,000	$2,000	$5,000
City Manager	$15,000	$30,000	$50,000

Single Transaction Amount Requested: _______________

Monthly Amount Requested: _______________

Department Head Name: ______________________________________

Department Head Signature: ______________________________________ Date: ______________

II. CARD ORDER & RECEIPT

Date Ordered: _______________ Who Ordered: ____

Date Received: _______________

Cardholder's Name as it Appears on the Card: ____

Card Number: ____

KENNEDALE
Finance Department

CITY OF KENNEDALE

PROCUREMENT CARDHOLDER ACKNOWLEDGEMENT FORM
(Appendix B)

I understand that the general use of the City of Kennedale credit card for small purchases is a standard procedure of the City.

1) I will be expected to use the credit card issued to me as directed by the provisions of the City's Procurement Card Program Policy.
2) I will not permit another person to use the credit card issued to me. Any such purchases made with my card will be considered to be made by me and my responsibility.
3) I will be responsible for the safe keeping of the credit card issued to me and if lost or stolen, I will report its loss immediately to **both** JP Morgan Chase Bank's Customer Service and the Program Administrator (Finance Department).
4) I understand that my personal credit will not be affected by any use of the City of Kennedale's credit card.
5) By accepting the Card, I recognize that I may be subject to periodic internal control reviews and audits designed to protect the interests of the City, and I agree to comply with these reviews and audits.
6) In the event of termination of employment whether for retirement, voluntary separation, resignation or dismissal, I also agree to surrender and cease use of the Card. In addition, I must surrender and cease use of the Card in the event of transfer or relocation.
7) I may also be asked to surrender the Card at any time deemed necessary by management.
8) The use of a City credit card to acquire or purchase goods and services for other than the official use of the City is fraudulent use. An employee guilty of fraudulent use will be subject to disciplinary action, up to and including dismissal.
9) I agree that any reimbursement owed the City, may be deducted from my wages as outlined in the City Procurement Card Program Policy.

By signing below, I acknowledge that I have read and agree to the terms and conditions of this document, as well as the City of Kennedale's Procurement Card Program Policy.

Employee Name: ____

Employee Signature: ____

Date: ______________________________

KENNEDALE
Finance Department

CITY OF KENNEDALE

PROCUREMENT CARD LOST/STOLEN NOTIFICATION FORM
(Appendix C)

Cardholder's Name: ____

Card Number: ____

Card Was (Please Check One):

_______ Lost
_______ Stolen
_______ Other (Describe): ______________________________

Describe How Card Was Lost/Stolen: ______________________________

____

____

____

Was Police Report Filed (Circle): Yes or No

If Yes: Department: ______________________________

Report Number: ______________________________

Credit Card Company Notified: Date: ______________________________

Time: ______________________________

Cardholder's Signature: ______________________ Date: ______________

Finance Director's Signature: ______________________ Date: ______________

KENNEDALE
Finance Department

CITY OF KENNEDALE
PROCUREMENT CARD TRANSACTION DISPUTE FORM
(Appendix D)

Cardholder's Name: ________________________________ Card Number: ________________________

Cardholder's Signature: ______________________________ Date: ________________________________

Vendor Name: ____

Statement Date: __________________________________ Transaction Date: ____________________

Transaction #: ____________________________________ Posting Date: ________________________

Amount Disputed: _________________________________

______ There is a difference in the amount I authorized, and the amount I was billed (a copy of your charge must be attached).

______ I only transacted one charge and I was previously billed for it (date of previous charge ___________).

______ The above transaction is mine but I am disputing the transaction (please state your reasons why in detail).

____
____
____

______I do not recognize the above transaction.

______ I have received a credit voucher for the above transaction, but it has not yet appeared on my account (a copy of the credit voucher must be attached).

______ My account has been charged for the above transaction, but I have not received the merchandise. The details of my attempt to resolve the dispute with the vendor and the vendor's response are indicated below.

____
____
____

Attach the completed form to your monthly statement for review and approval by your Approving Supervisor and Accounts Payable.

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Staff Report to the Honorable Mayor and City Council

Date: November 17, 2011

Agenda Item No: CONSENT ITEMS - F.

I. Subject:

Discuss and consider A RESOLUTION ADOPTING AN AMENDED CITY OF KENNEDALE PURCHASING POLICY.

II. Originated by:

Sakura Moten-Dedrick, Director of Finance & IT

III. Summary:

State law (Local Government Code, Chapter 252: Purchasing and Contracting Authority of Municipalities) serves as the primary purchasing authority for the City of Kennedale. This Policy establishes standard practices and procedures to create uniformity, economy, efficiency and effectiveness in our purchasing program.

It is the recommendation of our independent auditors that our main policies be reviewed by the Director of Finance for updates in relation to our internal control practices and submitted to Council at least annually. In order to demonstrate our review, it is custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

There main recommended change has been to align our purchasing policy amounts to match the state's revision to the competitive sealed bid/proposal requirement. Previously, local governments were required to enter into the competitive process for goods and services that totaled $25,000 or more. This was increased to $50,000 by the legislature, and so to have we eliminated the older requirement and substituted it with the newer one.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Resolution To Amend Purchasing Policy	Resolution To Amend Purchasing Policy.doc
2.	Purchasing Policy	20111117 Purchasing Policy.docx

RESOLUTION NO. ________________

A RESOLUTION AMENDING A CITY OF KENNEDALE PURCHASING POLICY

WHEREAS, on November 13, 2008, the City Council adopted the document entitled, “Purchasing Policy,” as guidelines for future City procurement; and

WHEREAS, a Purchasing Policy establishes standard practices and procedures to create uniformity, economy, efficiency and effectiveness in our purchasing program; and

WHEREAS, the City Council has reviewed the City’s Purchasing Policy.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE, TEXAS:

The City Council of the City of Kennedale, Texas hereby approves the Purchasing Policy dated November 17, 2011, attached hereto as “Exhibit A.”

PASSED, ADOPTED AND APPROVED by the City Council of the City of Kennedale, Texas, this the 17th day of November 2011.

APPROVED:

____
Mayor, Bryan Lankhorst

ATTEST:

____
City Secretary, Amethyst Cirmo

OFFICIAL SEAL

CITY OF KENNEDALE

KENNEDALE
Finance Department

PURCHASING POLICY

ORIGINALLY ADOPTED BY CITY COUNCIL: NOVEMBER 13, 2008

PREFACE

State law (Local Government Code, Chapter 252: Purchasing and Contracting Authority of Municipalities) serves as the primary purchasing authority for the City of Kennedale. In addition to several administrative updates, which further establish standard practices and procedures to create uniformity, economy, efficiency and effectiveness in our purchasing program, Staff incorporated a major revision due to a change in statute. Specifically, the expenditure threshold increased from $25,000 to $50,000 in reference to competitive bidding and proposal requirements per Senate Bill 1765.

This policy was formally adopted by the Council on November 13, 2008. However, prior to this date, it was created on May 16, 2005 and reviewed administratively.

It is our intent to bring forth this policy to Council for review at least annually. In order to demonstrate that review, it will be custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

SUBSEQUENT REVIEW & ADOPTION

NOVEMBER 5, 2009

NOVEMBER 17, 2011

I. PURPOSE

The purpose of this policy is to establish standard practices and procedures to create a uniformity, economy, efficient and effective purchasing program for the City of Kennedale.

II. POLICY

It is the policy of the City of Kennedale to authorize purchases at time and place needed in the proper quantity and of the proper quality, all goods and services required for City operations. Goods and services shall be procured at the lowest possible cost consistent with prevailing economic conditions while establishing and maintaining a reputation for fairness and integrity, with the express intent to promote open and fair conduct in all aspects of the purchasing process.

III. GOVERNING AUTHORITY

The primary governing authority for the City of Kennedale's Purchasing Policy shall be the City's Charter, in conjunction with *Chapter 252 of the Local Government Code: Purchasing and Contracting Authority of Municipalities*. All procurement activity shall be governed in accordance with applicable federal, state, and local statues, ordinances, and codes.

IV. CODE OF ETHICS

By participating in the purchasing process, employees of the City of Kennedale agree to:

A. Avoid the intent and appearance of unethical or compromising practice in relationships, actions, and communications.

B. Demonstrate loyalty to the City of Kennedale by diligently following the lawful instructions of the employer, using reasonable care, and only authority granted.

C. Refrain from any private business or professional activity that would create a conflict between personal interests and the interest of the City of Kennedale.

D. Refrain from soliciting or accepting money, loans, credits, or prejudicial discounts, and the acceptance of gifts, entertainment, favors, or services from present or potential suppliers that might influence, or appear to influence purchasing decisions.

E. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether as payment for services or not; and never accept for himself or herself or for family members, favors or benefits under circumstance which might be construed by reasonable persons as influencing the performance of Governmental duties.

F. Engage in no business with the City of Kennedale, directly or indirectly, which is inconsistent with the conscientious performance of Governmental duties.

G. Handle confidential or proprietary information belonging to employer or suppliers with due care and proper consideration of ethical and legal ramifications and governmental regulations.

H. Never use any information gained confidentially in the performance of Governmental duties as a means of making private profit.

I. Promote positive supplier relationships through courtesy and impartiality in all phases of the purchasing cycle.

J. Know and obey the letter and spirit of laws governing the purchasing function and remain alert to the legal ramifications of purchasing decisions.

K. Expose corruption and fraud wherever discovered.

L. Uphold these principles, ever conscious that public office is a public trust.

V. FUND AVAILABILITY & PAYMENT AUTHORIZATION

A. Verification of fund availability is the responsibility of the User Department.

B. Finance Department shall verify available funds through the City's financial reporting system during requisition entry. If funds are not available at the time, no purchase will be made until funds are made available with approval from City Manager.

C. At a minimum, payment approval is required from Department Head to pay for **all** products and/or services.

D. Approved invoices are forwarded directly to the Finance Department with the appropriate supporting documentation and signatures.

E. Payments for goods and services must be paid **no later than 30 days after the later** of:

1) Receipt of goods/services OR receipt of the invoice for the goods/services.

2) Goods/services will be considered received when they have been accepted as usable by the User Department.

VI. LEGAL REQUIREMENTS

A. _Texas Local Government Code, Subchapter B, Section 252.021_ defines the requirements for competitive bids. Under no circumstances shall multiple requisitions be used in combination to avoid otherwise applicable bidding requirements or City Council approval. Intentionally splitting purchases to circumvent the competitive bid process (i.e. two or more purchases made to keep the amount under $50,000) will result in disciplinary action.

B. Likewise, intentionally splitting purchases to circumvent the three (3) quote requirement process (i.e. two or more purchases made to keep the amount under $3,001) will result in disciplinary action.

C. Purchases made through an approved Cooperative Purchasing Program satisfy state law competitive bid requirements, as well the City of Kennedale's requirement for any quote process. Cooperative purchasing occurs when **two or more** governmental entities coordinate some or all purchasing efforts to reduce administrative costs, take advantage of quantity discounts, share specifications, and create a heightened awareness of legal requirements. Cooperative purchasing can occur through interlocal agreements, state contracts, piggybacking, and joint purchases.

D. Any exemption per *Section 252.022, General Exemption of Texas Local Government Code* will need the approval from City Manager. The Department Head will need to include a written explanation, as well as copies of all the quotes for City Manager review. Upon approval from City Manager, attach written explanation and all documentation and send to Finance Department for payment.

VII. QUOTES

A. Purchases of non-contract goods or services totaling **$3,000 or less require no quotation**. In such instances, departments should make every effort to use the City's procurement card.

B. Except where otherwise exempted by applicable State law, purchases totaling **$3,001 to $49,999.99 require a minimum of three (3) quotes**. All quotations received must be in writing from the vendor and will be evaluated by the Department Head who will then authorize the purchase.

1) *Chapter 252.0215 of the Local Government Code: Competitive Bidding in Relation to Historically Underutilized Business (HUB) Vendors*, states that a municipality, in making an expenditure of **more than $3,000 but less than $50,000**, shall contact **at least two HUBs** on a rotating basis. If the list fails to identify a disadvantaged business in the county in which the City is situated, the City is exempt from this section.

2) Historically Underutilized Business (HUB) are defined as any business determined by the State of Texas to be a disadvantaged (minority/woman owned) vendor.

3) Refer to Appendix B for specific instructions on how to conduct a HUB search.

VIII. SEALED COMPETITIVE PROCESS

Except as otherwise exempted by applicable State law, requisitions for item(s) whose aggregate total cost is **more than $50,000** must be processed as competitive solicitations (e.g. sealed bids, request for proposals, and request for offers).

1) With the approval from the City Manager to begin the competitive process, the User Department shall prepare a bid package with specifications and any other pertinent information. Along with the specifications and other information, the Department may submit suggested vendors for the item(s) requested.

2) A notice will be published in Kennedale's official newspaper to indicate the City's intent to accept bids in accordance with State law. Bids must be advertised for two (2) consecutive weeks with the first publication at least 14 days prior to the bid opening date.

3) Vendor pre-bid conferences may be conducted if, in the opinion of requesting Department, further explanation or coordination is needed due to the nature of the bid.

4) The City Secretary or designee shall publicly open the bids received and read them aloud at a designated time and as indicated in the bid packet. The City Secretary or designee will indicate to those present when the Council will most likely address this item and will make available to those present the names of the vendors and the amount of their respective bids. In the case of an RFP, only the submitter's names will be announced. A tabulation will then be created. A representative from the User Department should be present during bid openings.

IX. AWARD OF CONTRACT

The City of Kennedale shall award contracts based on criteria deemed in the best interest of the City. The *Texas Local Government Code, Section 252.043*, states, in part:

1) If the competitive sealed bidding requirement applies to the contract for goods or services, the contract must be awarded to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.

2) Before awarding a contract under this section, a municipality must indicate in the bid specifications and requirements that the contract may be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.

X. RECIPROCITY

The State of Texas Reciprocity Law provides that the State or political subdivision cannot award contracts or purchases to non-resident bidders having local preference laws in their resident states, unless their bid is lower than the lowest bid submitted by a responsible Texas resident bidder by the amount that a Texas resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located.

XI. DISCLOSURE OF INFORMATION

Access to bidder-declared trade secrets or confidential information shall be in accordance with the *Texas Government Code Chapter 552*, the *Public Information Act*, and applicable City policies implementing this chapter. The *Texas Local Government Code Chapter 252.049(b)* states, in part:

A. If provided in a Request For Proposal (RFP), proposals shall be opened in a manner that avoids disclosure of the contents to competing offers and keeps the proposals secret during negotiations. All proposals are open for public inspection after the contract is awarded, but trade secrets and confidential information in the proposals are not open for public inspection.

XII. AUTOMATED INFORMATION TECHNOLOGY PURCHASES

Departments may contact the Finance Department for all technology procurements, so that it can coordinate with Information Technology to ensure that the appropriate solicitation procedure is used and product is sought. Automated information technology purchases include:

A. The computers on which the information system is automated;

B. A service related to the automation of the system, including computer software, or the computer; and

C. A telecommunications apparatus or device that serves as a component of a voice, data, or video communications network for transmitting, switching, routing, multiplexing, modulating, amplifying, or receiving signals on the network.

XIII. PROFESSIONAL SERVICES (EXEMPT FROM SEALED COMPETITIVE PROCESS)

Personal and professional services are exempted from the competitive bidding process and are procured through the use of Request for Qualification (RFQ) documents. The Finance Department is available to consult with departments regarding the preparation of information; however, the presentation of technical and qualifications aspects of personal and/or professional services included in the RFQ documents is the sole responsibility of the requesting department.

A. *Texas Government Code, Chapter 2254, Subchapter A, Professional Services*, states that contracts for the procurement of defined professional services may not be awarded on the basis of competitive bids. Instead, they must be awarded on the basis:

1) Of demonstrated competence and qualifications to perform the services;

2) For a fair and reasonable price;

3) Fees are allowed;

4) Must be consistent with and not higher than the recommended practices and fees published by the applicable professional associations; and

5) May not exceed any maximum provided by law.

B. Professional Services, for the purposes of *Government Code Chapter 2254,* are defined as those "services within the scope of the practice, as defined by state law, of accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising, or professional nursing, or provided in connection with the professional employment or practice of a person who is licensed or registered as a certified public accountant, an architect, a landscape architect, a land surveyor, a physician, including a surgeon, an optometrist, a professional engineer, a state certified or state licensed real estate appraiser, or a registered nurse."

XIV. SOLE SOURCE PURCHASES (EXEMPT FROM SEALED COMPETITIVE PROCESS)

Sole-source purchases are items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies as defined by local government code. When a department has identified a specific item with unique features or characteristics essential and necessary to the requesting department and no alternate products are available, a written justification must be provided to the Finance Department upon purchase. The legislature exempted certain items from sealed bidding in the *Vernon's Texas Codes Annotated - Local Government Code Section 252.022 (a) 7*, in part:

A. Items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;

B. films, manuscripts, or books;

C. gas, water and other utility services;

D. capitial replacement parts or components for equipment;

E. books, papers, and other library materials for a public library that are available only from the person holding exclusive distribution rights to the materials; and

F. management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits.

XV. EMERGENCY PURCHASES (EXEMPT FROM SEALED COMPETITIVE PROCESS)

Valid emergencies are those that occur as a result of the breakdown of equipment, which must be kept in operation to maintain the public's safety or health, or whose breakdown would result in the disruption of City operations. When this situation occurs, the department shall contact the Finance Department to conduct the procurement of supplies and services. The Legislature exempted certain items from the competitive sealed process in the *Texas Local Government Code Section 252.022(a)*, including, but not limited to:

A. A procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality;

B. A procurement necessary to preserve or protect the public health or safety of the municipality's residents;

C. A procurement necessary.

XVI. INELIGIBLE VENDORS

A. An ineligible vendor shall not be allowed to conduct business until:

1) Financial arrears are paid in full.

2) Inappropriate practices are corrected.

3) Vendors have satisfied any and all penalties imposed by the City.

4) If applicable, a listing of ineligible vendors will be developed and distributed annually by the Finance Department to all other departments, unless a greater frequency is determined by the Director of Finance.

5) At the recommendation of a User Department, the Finance Department may declare a vendor ineligible if it has failed to comply with the terms of a previous award, specifications of a bid or conducted inappropriate business practices.

6) The penalty imposed may be for a period of up to twelve (12) months during which time bids submitted by such vendor shall not be considered.

7) A penalty greater than twelve (12) months due to the severity of the infraction requires the approval of the City Manager or designee.

B. The City of Kennedale reserves the right to change, modify, amend, revoke or rescind all or part of this policy in the future.

XVII. AUDIT OF DEPARTMENTAL RECORDS

The Finance Department may audit User Department purchasing files to ensure compliance with the procedures described herein.

XVIII. ANNUAL REVIEW

The Director of Finance shall, at a minimum, submit proposed amendments of this policy to the City Council annually.

APPENDIX A

CITY OF KENNEDALE, TEXAS
PURCHASING MATRIX

PURCHASE AMOUNT	***$0 - $3,000***	***$3,001 - $49,999.99***	***$50,000 & Above***
SIGNATURES REQUIRED	▪ Department Head	▪ Department Head ▪ City Manager	▪ City Manager ▪ City Council
PURCHASE ORDER	▪ Not Required ▪ Only If Vendor Needs	▪ Not Required ▪ Only If Vendor Needs	▪ Not Required ▪ Only If Vendor Needs
LEGAL REQUIREMENT	▪ N/A	▪ Three (3) Quotes ▪ Two (2) Of Three (3) Quotes Must Be HUB Vendors In Tarrant County ▪ If HUB(s) not listed, City Is Exempt	▪ Competitive Bid Or ▪ Competitive Proposal
EXEMPT FROM LEGAL REQUIREMENT	▪ N/A	▪ Cooperative Programs Purchases ▪ Sole Source Purchases ▪ Emergency Purchases ▪ Professional Service Purchase	▪ Cooperative Programs Purchases ▪ Sole Source Purchases ▪ Emergency Purchases ▪ Professional Service Purchase **- MUST USE REQUEST FOR QUALIFICATIONS PROCESS. REFER TO SECTION XIII.**
MINIMUM PAYMENT DOCUMENT(S)	▪ Pay Request ▪ Invoice (Not Quote) ▪ Applicable Receipts ▪ Backup Documents	▪ Pay Request ▪ Invoice (Not Quote) ▪ Applicable Receipts ▪ Backup Documents	▪ Pay Request ▪ Invoice (Not Quote) ▪ Applicable Receipts ▪ Backup Documents
PAYMENT TERMS	▪ TX Prompt Payment Act (No Later 30 Days)	▪ TX Prompt Payment Act (No Later 30 Days)	▪ TX Prompt Payment Act (No Later 30 Days)

APPENDIX B

CITY OF KENNEDALE, TEXAS
HISTORICALLY UNDERUTILIZED BUSINESS (HUB) PROCEDURES

Excerpts from the Texas Local Government Code, Chapter 252, Subchapter B:

A. Section 252.0215, " A municipality, in making an expenditure of more than $3,000 but less than $50,000, shall contact at least two historically underutilized businesses on a rotating basis, based on information provided by the comptroller pursuant to Chapter 2161, Government Code. If the list fails to identify a historically underutilized business in the county in which the municipality is situated, the municipality is exempt from this section."

B. Centralized Master Bidders List & Historically Underutilized Business (HUB) Search

   1) Go to http://www.window.state.tx.us/procurement/cmbl/cmblhub.html
   2) Click "HUBS on CMBL."
   3) Enter "Class Code, Item Code, District" if available. Description of each is provided by clicking on link directly below.
   4) Select "Tarrant" on Texas County dropdown list.
   5) Click "Submit Search."
   6) Select appropriate Output Fields on "Select Fields For Detail List" page.
   7) Click "Go."
   8) Results will appear.

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Staff Report to the Honorable Mayor and City Council

Date: November 17, 2011

Agenda Item No: CONSENT ITEMS - G.

I. Subject:

Discuss and consider A RESOLUTION ADOPTING A CITY OF KENNEDALE UNCLAIMED PROPERTY POLICY.

II. Originated by:

Sakura Moten-Dedrick, Director of Finance & IT

III. Summary:

All financial institutions, businesses, government entities, and organizations that are holding abandoned property belonging to Texas residents should file a report with the Texas Comptroller's office. Title 6 of the Texas Property Code governs the State of Texas Unclaimed Property Program. Chapters 72 through 75 apply to the reporting, delivery and claims process for abandoned property. Chapter 76 applies specifically to unclaimed property held and reported by Texas counties, municipalities, independent school districts and junior colleges.

The aim of the Unclaimed Property Policy is to guide the City of Kennedale in the required annual review of its records and reporting of all tangible and intangible property presumed abandoned that is held or is owed in the ordinary course of Kennedale's business and remained unclaimed by the owner for more than a specified period of time after it became payable or distributable.

It is our intent to bring forth this policy to Council for review at least annually. In order to demonstrate that review, it will be custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

This is a new policy; therefore, there are no recommended changes from last year's annual review.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Resolution To Adopt Unclaimed Property Policy	Resolution To Adopt Unclaimed Property Policy.doc
2.	Unclaimed Property Policy	20111117 Unclaimed Property Policy.docx

RESOLUTION NO. _______________

A RESOLUTION ADOPTING A CITY OF KENNEDALE UNCLAIMED PROPERTY POLICY

WHEREAS, on November 17, 2011, City Council adopted the document entitled, "Unclaimed Property Policy," a framework to guide the City of Kennedale in the required annual review of its records and reporting of all tangible and intangible property presumed abandoned that is held or is owed in the ordinary course of Kennedale's business and remained unclaimed by the owner for more than a specified period of time after it became payable or distributable; and

WHEREAS, the City of Kennedale recognizes its responsibility to make a good faith effort to determine the whereabouts of the owner of property, and also recognizes that there are limits to what can be done to locate the rightful owner of property; and

WHEREAS, the City Council has reviewed the City's Unclaimed Property Policy.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE, TEXAS:

> The City Council of the City of Kennedale, Texas hereby approves the amended Unclaimed Property Policy dated November 17, 2011, attached hereto as "Exhibit A."

PASSED, ADOPTED AND APPROVED by the City Council of the City of Kennedale, Texas, this the 17th day of November 2011.

APPROVED:

____
Mayor, Bryan Lankhorst

ATTEST:

____
City Secretary, Amethyst Cirmo

OFFICIAL SEAL

CITY OF KENNEDALE

KENNEDALE
Finance Department

UNCLAIMED PROPERTY POLICY

ORIGINALLY ADOPTED BY CITY COUNCIL: NOVEMBER 17, 2011

PREFACE

The aim of the Unclaimed Property Policy is to guide the City of Kennedale in the required annual review of its records and reporting of all tangible and intangible property presumed abandoned that is held or is owed in the ordinary course of Kennedale's business and remained unclaimed by the owner for more than a specified period of time after it became payable or distributable.

It is our intent to bring forth this policy to Council for review at least annually. In order to demonstrate that review, it will be custom practice for the governing board of a municipality to adopt a resolution to make the review an official public record.

SUBSEQUENT REVIEW & ADOPTION

I. BACKGROUND

All financial institutions, businesses, government entities, and organizations that are holding abandoned property belonging to Texas residents should file a report with the Texas Comptroller's office. Title 6 of the Texas Property Code governs the State of Texas Unclaimed Property Program. Chapters 72 through 75 apply to the reporting, delivery and claims process for abandoned property. Chapter 76 applies specifically to unclaimed property held and reported by Texas counties, municipalities, independent school districts and junior colleges.

Unclaimed property can be any financial asset that appears to have been abandoned by the owner, such as the following:

- Uncashed dividends, payroll, cashier's checks;
- Stocks, bonds, mutual fund accounts;
- Utility deposits and other refunds;
- Bank accounts and safe deposit box contents;
- Insurance proceeds;
- Mineral interest or royalty payments; and/or
- Court deposits, trust funds, escrow accounts.

The abandonment period is the number of years that an entity holds the property before sending it to the state Comptroller's office. The property type determines the length of the abandonment period.

The City of Kennedale recognizes its responsibility to make a good faith effort to determine the whereabouts of the owner of property, and also recognizes that there are limits to what can be done to locate the rightful owner of property.

II. POLICY

On an annual basis, the City of Kennedale is required to review its records and determine whether it is holding any funds, securities or other property that has been unclaimed for the required dormancy period, and to report and remit these unclaimed funds to the State of Texas.

III. LEGAL REQUIREMENTS

A. Property is classified as unclaimed if it has reached the required abandonment period as of June 30th each year. The City must hold property until the appropriate abandonment period has run, and if property is determined to be unclaimed after this date, it must be included in the next annual remittance to the State.

1) The abandonment period is determined by the property type. For more specific detail, refer directly to the Texas Comptroller of Public Accounts: Unclaimed

Property Reporting Instructions. Instructions are subject to change due to new or revised requirements, so annual review of this manual is required.

B. Prior to remitting property to the Comptroller's Office as described below, the City must mail a written notice to the owner on property valued at **more than $250.00** no later than Aug 1st of the year in which the property is classified as unclaimed per Section 74.1011 of the Texas Property Code. This notice requirement does not apply if a letter has already been mailed to the missing owner earlier in the abandonment period. For sample letter, refer directly to the Texas Comptroller of Public Accounts: Unclaimed Property Reporting Instructions. Instructions are subject to change due to new or revised requirements, so annual review of this manual is required.

C. Property that is valued at **more than $100.00** will be delivered, along with the required report form(s), to the State Comptroller's Office by Nov 1st **following** the date the property is classified as unclaimed. Should the City not have unclaimed property individually valued at more than $100, there is no report required.

1) Property that is due Nov 1st may be remitted any time after the annual cut-off date of June 30th and before Nov 1st.

D. Per Title 6, Chapter 76 of the Texas Property Code, property that is valued at **less than $100.00** will be retained by the City.

1) The City shall publish a notice in its official newspaper (general circulation in the jurisdiction of the holder) on or before Nov 1st in the calendar year **immediately following** the year in which the property report is filed. For example: Notices for property classified as unclaimed on June 30, 2011 must be published by November 1, 2012. The Finance Department will strive to publish this notice earlier by June 30th of each year.

2) At a minimum, the owner's name and last known address must be listed.

3) If at all possible, the City will also include this notice on its official website.

4) While the City is required to publish a notice, it may elect to advertise only those properties with a value greater than a specified amount of its choosing (i.e,. greater than $50.00 but less than $100.00). For the City's purposes, the Finance Department will include **all** property valued at less than $100.00.

IV. CLAIMS PROCESS

A. There is no statute of limitation on filing a claim.

B. Claimants must fill out a claim form and present proof of ownership.

C. Within **90 days** from the date of receiving the returned claim form, the Finance Department will determine in good faith if the claim is valid. If the claim is valid, the City will pay the full amount of the claim.

D. If the claim is determined to be invalid, it will be rejected. The claimant may appeal this decision in accordance with Section 76.504 of the Texas Property Code.

V. ACCOUNTING

A. For property, which is valued at **less than $100.00** and retained by the City, the Finance Department will transfer funds from the City's operating funds to the Unclaimed Property Fund <u>on or before June 30th</u> for property classified as unclaimed.

   1) Finance Department must void account payable entries code to a liability account in Unclaimed Property Fund versus hitting an expense line item.

B. The Finance Department will transfer all funds retained by the City for **more than two (2) years.** This transfer will be conducted from the Unclaimed Property Fund to the General Fund. The General Fund will then become responsible for paying a valid claim should a valid claim be submitted.

   1) This action will clear out the liability account in the Unclaimed Property Fund and provide revenue to the General Fund.

C. All publication and postage expenditures will be charged to Finance Department within the General Fund. These items are budgeted annually.

D. For the purpose of simplicity, the Unclaimed Property Fund is <u>not</u> allocated earned interest. The City is <u>not</u> obligated to pay interest to a claimant. Only the original amount of the unclaimed property will be paid to the claimant.

VI. ANNUAL REVIEW

The Director of Finance shall, at a minimum, submit proposed amendments of this policy to the City Council annually.

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Staff Report to the Honorable Mayor and City Council

Date: November 17, 2011

Agenda Item No: CONSENT ITEMS - H.

I. Subject:

Discuss and consider A RESOLUTION ADOPTING ETHICAL AND TRAINING STANDARDS FOR JUVENILE CASE MANAGERS EMPLOYED BY THE CITY OF KENNEDALE, PROVIDING FOR IMPLEMENTATION OF SAID STANDARDS, AND PROVIDING FOR PERIODIC REVIEW TO ENSURE IMPLEMENTATION OF THE REQUISITE STANDARDS.

II. Originated by:

Jennifer Bozorgnia, Municipal Court Administrator

III. Summary:

In 2009, Council granted staff the ability to collect a "Juvenile Case Manager" fee of five dollars ($5.00) upon each conviction for citations filed within the Municipal Court. This fee has been collected with the intention of building the fund to the point it could either be used in conjunction with other cities to jointly employ a Juvenile Case Manager or sustain a part-time position for the City itself. However, during the 82nd Regular Legislature, Senate Bill 61 was passed, changing Texas law requiring that cities, who are currently collecting the fee, to immediately employ the position or stop collecting it altogether.

"…SECTION 2. Article 45.056, Code of Criminal Procedure, is amended by amending Subsection (d) and adding Subsections (f), (g), and (h) to read as follows:
(d) Pursuant to Article 102.0174, the court or governing body may pay the salary and benefits of a juvenile case manager and the costs of training, travel, office supplies, and other necessary expenses relating to the position of the juvenile case manager from the juvenile case manager fund.
(f) The governing body of the employing governmental entity under Subsection (a) shall adopt reasonable rules for juvenile case managers that provide:
(1) a code of ethics, and for the enforcement of the code of ethics;
(2) appropriate educational preservice and in-service training standards for juvenile case managers; and
(3) training in:
(A) the role of the juvenile case manager;
(B) case planning and management;
(C) applicable procedural and substantive law;
(D) courtroom proceedings and presentation;
(E) services to at-risk youth under Subchapter D, Chapter 264, Family Code;
(F) local programs and services for juveniles and methods by which juveniles may access those programs and services; and
(G) detecting and preventing abuse, exploitation, and neglect of juveniles.
(g) The employing court or governmental entity under this article shall implement the rules adopted under Subsection (f).
(h) The commissioners court or governing body of the municipality that administers a juvenile case

manager fund under Article 102.0174 shall require periodic review of juvenile case managers to ensure the implementation of the rules adopted under Subsection (f)…
… SECTION 4. Not later than December 1, 2011, the governing body of a governmental entity that employs a juvenile case manager under Article 45.056, Code of Criminal Procedure, as amended by this Act, shall adopt the rules required by that article."

To comply, the additional title of "Juvenile Case Clerk" was added to the "Deputy Court Clerk" with a portion of her salary being paid from the fund. In addition, the bill mandates the establishment of minimum training and educational standards for juvenile case managers. To further comply with these additional statutory requirements, staff is requesting Council approve the recommended resolution adopting the Code of Ethics (Exhibit A), In-Service Requirements (Exhibit B) and the Required Training (Exhibit C).

Not later than December 1, 2011, the governing body of a governmental entity that employs a juvenile case manager under Article 45.056, Code of Criminal Procedure, is required to adopt minimum training and education standards for juvenile case managers.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Resolution Adopting Juvenile Case Manager Code of Ethics	JCM - November 2011 Council Resolution.doc
2.	Exhibit A	JCM - November 2011 Model Code of Ethics.doc
3.	Exhibit B	JCM - November 2011 Pre-Service and In-Service Recommendations.doc
4.	Exhibit C	JCM - November 2011 Required Training Exhibit C.docx

RESOLUTION NO. __________

A RESOLUTION ADOPTING ETHICAL AND TRAINING STANDARDS FOR JUVENILE CASE MANAGERS EMPLOYED BY THE CITY OF KENNEDALE, PROVIDING FOR IMPLEMENTATION OF SAID STANDARDS, AND PROVIDING FOR PERIODIC REVIEW TO ENSURE IMPLEMENTATION OF THE REQUISITE STANDARDS

WHEREAS, the City has, pursuant to Code of Criminal Procedure 102.0174, authorized a juvenile case manager fund supported by additional costs assessed and collected in municipal court; and

WHEREAS, the City has, pursuant to Code of Criminal Procedure 45.056, employed a juvenile case manager to provide services in cases involving juvenile offenders before the court; and

WHEREAS, the 82nd Texas Legislature enacted Senate Bill 61, which requires a governing body employing a juvenile case manager to adopt, by December 1, 2011, reasonable rules for juvenile case managers that provide for a code of ethics, educational pre-service and in-service training standards, and training in relevant substantive areas; and

WHEREAS, the City wishes to ensure that its juvenile case managers receive the requisite training and are held to the highest ethical standards;

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE, TEXAS, AS FOLLOWS:

1. The City hereby adopts the Juvenile Case Manager Code of Ethics, attached hereto as Exhibit "A", as the ethical standard to which the City's juvenile case managers shall be held.
2. The City hereby adopts the Educational Pre-service and In-service Training Standards, attached hereto as Exhibit "B", as the appropriate educational standards for its juvenile case managers.
3. The City hereby requires that its juvenile case managers receive training in the role of the juvenile case manager, case planning and management, applicable procedural and substantive law, courtroom proceedings and presentation, services to at-risk youth, local programs for juveniles, and the detection and prevention of abuse, exploitation, and neglect of juveniles, as set forth in Exhibit "C'.
4. The City hereby directs that the rules adopted herein be implemented by the appropriate personnel.
5. The City hereby requires annual review of its juvenile case managers to ensure implementation of the rules adopted herein.

PASSED AND APPROVED ON THIS THE ____ DAY OF NOVEMBER, 2011.

____
MAYOR

ATTEST:

____
CITY SECRETARY

PREAMBLE

The goal of the juvenile case manager is to assist the Court in administering the Court's juvenile docket and in supervising its court orders in juvenile cases. The mission of the juvenile case manager is to assist judges in providing juveniles the resources to shape their futures, connect with the community, and become law abiding citizens. When applying this Code of Ethics, keep foremost in mind that the City is guided at all times by the values of integrity, excellence, compassion, and respect for the dignity of every person.

STANDARDS

Confidentiality. A juvenile case manager shall not disclose to any unauthorized person any confidential information acquired in the course of employment. A juvenile case manager shall not violate the confidentiality of juvenile clients, unless it is to seek consultation services from within the case management program, school campus, or the juvenile has threatened to harm himself, herself or others, or to provide details of any criminal activity or enterprise.

Conflicts of Interest. A juvenile case manager shall be alert to and avoid conflicts of interest that interfere with the exercise of professional discretion and impartial judgment. In order to maintain the community's trust in the judicial system, a juvenile case manager should avoid soliciting or accepting improper gifts, gratuities, or loans, and should avoid engaging in business relationships that give rise to an appearance of impropriety.

Competence. A juvenile case manager shall endeavor at all times to perform official duties properly and with courtesy and diligence. A juvenile case manager shall fulfill his or her duty and represent himself or herself only within the boundaries of their education, training, license, certification, consultation received, supervised experience, or other relevant professional experience.

Respect for the Law. A juvenile case manager shall abide by all federal, state, county, and municipal laws, guidelines, ordinances and rules. A juvenile case manager shall be familiar with the Texas Code of Judicial Conduct and the basic standards to which members of the judiciary are held.

Abuse of Position. A juvenile case manager shall not use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself, herself, or any other person. A juvenile case manager shall always maintain an appropriate relationship with juveniles coming under the jurisdiction of the Court. A juvenile case manager shall not discriminate against any person on the basis of age, sex, creed, sexual preference, disability, or national origin.

ENFORCEMENT

Any alleged violation of applicable ethical standards shall be subject to investigation and discipline by the hiring entity's designated non-judicial department or supervisor.

Recommendations for Applicants:

Most Preferred: a four year degree in relevant social sciences field such as social work, psychology, sociology.

Optional Preferred: a four year degree in any discipline and minimum two year experience as a case manager.

Least recommended: A high school diploma/GED and five years relevant (or applicable) experience to be determined by the municipality.

Recommendations for existing JCM:

Existing juvenile case managers that lack suggested areas of training should begin obtaining said requirements through the "in-service" section via a time frame to be determined by the municipality.

Definitions:

Pre-service Training refers to those skills, training, or certifications possessed at the time of hire or prior to the commencement of the juvenile case manager's full duties.

In-Service Training refers to additional skills, training, or certification hours obtained after commencement of juvenile case manager's full duties.

Pre-Service Training Requirements:

(Minimum recommendation of 24 hours of the following prior to start case work)

- The role of the juvenile case manager
- Ethics
- Juvenile law & introduction to court procedure
- Fundamentals of case planning and management
- Interagency collaboration
- Risk assessment
- Juvenile mental health
- Child psychology
- Report writing

In-Service Training Requirements:

(Minimum recommendation of 8 hours per year)

- Mental health
- Legal updates

- Recognizing and Reporting Abuse & Neglect
- Substance Abuse
- Special Topics
    - Juvenile Gangs
    - Family Violence
    - Bullying
    - Sex offenders
    - Juveniles with Learning, Psychological, and Physical Disabilities
- Upgrades in Documentation and Technology
- How to Be an Expert Witness

The Role of the Juvenile Case Manager

In Texas, municipal and justice courts come into contact with more children accused of violating the law than juvenile courts. Juvenile case managers are employed as a local strategic measure to help prevent children from becoming further involved in the justice system and to curb juvenile crime at the local level.

A juvenile case manager provides services in cases involving juvenile offenders before a court consistent with the court's statutory powers[1]. Juvenile case managers assist the court in administering the court's juvenile docket and in supervising its orders in juvenile cases.[2] Juvenile case managers timely report any information or recommendations relevant to assisting the judge in making decisions that are in the best interest of the child.[3]

While state law provides some parameters, the work performed by juvenile case managers is determined in light of local needs and circumstances. Accordingly, case managers may also perform intake duties on complaints filed, operate diversion programs, implement dispositional orders by providing supervision services, and initiate proceedings for enforcing those orders in the event of a violation.[4]

[1] Article 45.056 (a) (1), Code of Criminal Procedure.
[2] Article 45.056 (c).
[3] Article 45.056 (f).
[4] Robert O. Dawson, *Texas Juvenile Law (7th Edition)* Texas Juvenile Probation Commission (2008) at 47.

Case Plans and Case Management

SB 61 passed in the Texas 82nd Legislative Session, established requirements for juvenile case managers employed by Texas municipal courts. These requirements include training in topics including case plans and case management. Case management is one of the strategies used by juvenile case managers to reduce juvenile crime and help prevent children from becoming further involved in the justice system.

The case manager coordinates with local service providers to assist families in obtaining counseling, human services, or other assistance. The case plan serves as a road map to keep all parties apprised of services that have been arranged and the status of service provision.

Case plans are typically developed during an intake meeting with the family. The information gathered during the meeting assists the case manager in identifying the family's needs, services they may be currently receiving, and additional services that are needed. The greater the family's involvement in the development of the plan, the greater their commitment to the activities and goals contained in the plan.

Once needs are identified and plans to address those needs are developed, the case manager is able to follow up with the family on a regular basis to determine progress and adjust the plan as needed. Moving from crisis management to case management reduces stress for all involved and allows for more effective service provision. This assists the case manager in meeting their goals of reducing juvenile crime and preventing children from becoming further involved in the juvenile justice system.

Advantages of a case plan for the case manager:

- Allows identification of strengths and needs;
- Allows better management of complex cases by breaking the various needs into smaller "pieces"

- Assists in identification of resources that best fit the child's needs; and
- Allows the opportunity to demonstrate that the child is responsible for their failure or success.

Advantages for the youth:

- Provides alternate solutions and strategies for avoiding risky behavior or situations;
- Opportunity to learn cause and effect, how his or her behavior created the given situation
- Provides a clear understanding of who is responsible for what in terms of accomplishing the goals described in the case plan; and
- Allows the child to "learn" how to deal with problems by setting and achieving short and long term goals.

Advantages for the parent/guardian:

- Increases consistency when dealing with problem situations or behavior;
- Provides understanding of the consequences of ineffective approaches and also positive consequences of effective goal setting;
- Allows the parent to "learn" how to deal with problems by setting and achieving short and long term goals; and
- Gives parent a clear understanding of what is expected of them and what they can expect from the case manager

Applicable Procedural and Substantive Law

Training in applicable procedural and substantive law should include, but should not be limited to:

- The structure of the Texas judicial system and the jurisdiction of the municipal court;
- The basic elements of the criminal justice system, the juvenile justice system, their differences, and their interactions;
- The role of the judge and the prosecutor;
- The rights of defendants;
- The elements and statutory foundations of fine-only misdemeanors often committed by juveniles;
- Procedures for summonsing juveniles and their parents/guardians into court;
- Sanctions available to the court to address and remedy offenses committed by juveniles, including mandatory sanctions required for commission of certain alcoholic beverage and tobacco offenses; and
- Procedures involving juveniles who become adults and who have unadjudicated cases or who have not complied with court orders.

Courtroom Proceedings and Presentation

Training in applicable courtroom proceedings and presentation should include, but should not be limited to:

- The role of the juvenile case manager;
- Code of Ethics applicable to court employees generally and to juvenile case managers in particular;
- Courtroom protocol (covers attire, order of events, talking to defendants, etc.) and;
- Defining and maintaining professional boundaries between the juvenile case manager, the juvenile, and the juvenile's parents/guardians.

Services to At-Risk Youth Under Subchapter D, Chapter 264, Family Code

Why?

- Section 264.302 provides that an "At-Risk Youth" or a parent of the youth may be referred to the Department of Protective and Regulatory Services (DPRS) by municipal courts in Texas as part of sentencing. Such services require that there be a contract for services with the DPRS within the county. If there is a contract for services, and the court orders that services be provided, then the DPRS "shall provide services for the child and the child's family." Municipal courts also have broad authority to make further orders for the best interest of the child and in order to obtain compliance of the court order.
- Article 45.057 of the Texas Code of Criminal Procedure also grants municipal courts broad authority to make orders to increase the likelihood that children and their families will comply with court orders that are designed to lower recidivism and address the underlying behavior highlighted by the commission of the crime.
- It is critical that courts have a method for creating a broad referral base in order to avail the court of the ability to increase compliance with the court's orders and the laws of the State of Texas.

What?

- The services available for the court to order include, crisis family intervention, emergency short-term residential care for children 10 years of age or older, family counseling, parenting skills training, youth coping skills training, advocacy training, and mentoring. (Sec. 264.302 (f)(1-7), Family Code)
- Under Texas Code of Criminal Procedure, Art. 45.057, a court may enter orders addressing the concerns and issues presented by Section 264.302(f) but may also enter an order requiring that the child attend a special program the court determines to be in the best interest of the child. Where there are services which have been approved by the county, the court may enter an order that includes rehabilitation, counseling, self-esteem, and leadership, work and job skills training, job interviewing and work preparation, self-improvement, parenting, manners, violence avoidance, tutoring, sensitivity training, parental responsibility, community service, restitution, advocacy, or mentoring. (Art. 45.057(2), Code of Criminal Procedure).
- The court may also enter orders requiring the parents to take classes, attend school classes and functions, and refrain from behavior provided the court makes specific findings of the need for the orders in order to insure compliance of the courts orders. See Art. 45.057(3), C.C.P. The court may order the parent to incur the costs of such programs not to exceed $100 to pay for the costs of the program. See Art. 45.057(4), C.C.P.

Local Programs and Services for Juveniles and Methods to Access Those Programs and Services

Why?

Community resource awareness is an essential component in accessing services for juveniles. Community resources encourage the healthy development of juveniles and families through direct services. These community resource services aid in addressing the cause of delinquent behavior, re-enforce accountability, remove barriers, and reduce recidivism.

What?

The local services may include:

- crisis family intervention;
- emergency short-term residential care for children 10 years of age or older ;

- family counseling;
- parenting skills training;
- youth coping skills training;
- advocacy training; and
- mentoring.

These may be accessed through court referrals, school referrals, community referrals, and/or through Texas 2-1-1.

Detecting and Preventing Abuse, Exploitation, and Neglect of Juveniles

Why?

Article 45.056, Code of Criminal Procedure, was recently amended in regards to juvenile case managers. Section 2, Subsection f, states that the governing body of the employing governmental entity under Subsection (a) shall adopt reasonable rules for juvenile case managers that provide training in detecting and preventing abuse, exploitation, and neglect of juveniles.

What?

The following are those areas in which juvenile case manager (JCM) training is required. The JCM should know the Texas Family Code definition of abuse, exploitation and neglect of juveniles as they will have direct access to families and juveniles in their home, school, and community environments. These definitions can be found at http://www.dfps.state.tx.us/contact_us/report_abuse.asp.

As per the Family Code, all citizens of Texas are required to report the belief of abuse, neglect, or exploitation of a child. Any person suspecting abuse and not reporting it can be held liable for a misdemeanor or state jail felony. JCMs should have immediate knowledge of the procedure for reporting abuse, neglect, or exploitation as they may find evidence of such while investigating and preparing their reports to the court.

JCMs consult with judges regarding:

- the child's home environment;
- the child's developmental, psychological, and educational status;
- the child's previous interaction with the justice system; and
- any sanction that is available to the court that would be in the best interest of the child

(See Art.45.056(g), C.C.P., as amended by S.B. 209).

JCMs are to give priority to cases brought under Section 25.093 (failure to attend school) and 25.094 (parent contributing to non-attendance) of the Education Code. Juvenile offenders are likely to live in environments where there is potential for lack of supervision or neglect which may contribute to truancy. Therefore, JCMs must understand the complexity of how these environments are directly contributing to continued offending by the juvenile and/or parent and the likelihood of current and potential abuse, neglect, or exploitation.

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Staff Report to the Honorable Mayor and City Council

Date: November 17, 2011

Agenda Item No: CONSENT ITEMS - I.

I. Subject:

Consider authorizing the City Manager to sign the annual Fort Worth Interlocal Agreement for Rabies Control

II. Originated by:

Tommy Williams, Police Chief

III. Summary:

Consider approval of the annual contract for the Fort Worth Animal Shelter.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Rabies Control Agreement 2011	Animal Services Contract 2011.pdf

FORT WORTH

September 30, 2011

Enclosed are three (3) originals of the 2012 Interlocal Agreement for Rabies Control with the City of Fort Worth. Please complete and executed all three (3) originals and return to the below address. Once we have received signed originals back, we will execute and return one (1) original to you for your files.

Sincerely,

Carola Scharlach

Carola Scharlach
Sr. Administrative Assistant
City of Fort Worth
Code Compliance
Animal Care and Control
4900 Martin St.
Fort Worth, TX 76119
817-392-3742
Carola.scharlach@fortworthgov.org

STATE OF TEXAS §
§
COUNTY OF TARRANT §

INTERLOCAL AGREEMENT FOR RABIES CONTROL

THIS AGREEMENT is made and entered into by and between the City of Fort Worth, a home-rule municipal corporation situated in Tarrant, Denton, Parker, and Wise Counties, Texas, acting by and through its duly authorized Assistant City Manager (hereinafter referred to as "City"), and the City of Kennedale, a home-rule municipal corporation located in Tarrant County, Texas, acting by and through its duly authorized ______________________ (hereinafter referred to as "Kennedale").

W I T N E S S E T H :

WHEREAS, Chapter 791 of the Texas Government Code authorizes the formulation of interlocal cooperation agreements between and among municipalities and counties for the performance of governmental functions; and

WHEREAS, Chapter 826 of the Texas Health and Safety Code, also known as the Rabies Control Act of 1981 (hereinafter referred to as the "Act"), requires governing bodies of each municipality to designate a local rabies control authority to enforce the Act and minimum standards for rabies control adopted by the Texas Department of State Health Services; and

WHEREAS, Section 826.016 of said Act authorizes a municipality to enter into agreements with public entities to carry out activities required or authorized under the Act; and

WHEREAS, Kennedale wishes to participate in an interlocal agreement with City for the purpose of limited rabies control in the City of Kennedale; and

WHEREAS, Kennedale and City mutually desire to be subject to the provisions of Chapter 791 of the Texas Government Code, also known as the Interlocal Cooperation Act.

NOW, THEREFORE, it is agreed as follows:

1.
PURPOSE

The purpose of this Interlocal Agreement is to enter into an agreement between the City and Kennedale whereby, subject to the terms and conditions hereinafter set forth and for the consideration specified below, City agrees to provide Kennedale with limited rabies control services in the City of Kennedale, and City agrees to provide impoundment and quarantine facilities for animals pursuant to this Agreement for the benefit of Kennedale.

2.
DEFINITIONS

For the purposes of this Agreement, the following definitions shall apply:

ACT shall mean the Rabies Control Act of 1981, codified as Chapter 826 of the Texas Health and Safety Code.

ANIMAL shall mean any living, vertebrate creature, domestic or wild, other than homo sapiens.

ANIMAL CARE AND CONTROL CENTER shall mean the facility located at 4900 Martin Street, Fort Worth, Texas, which is operated by the City for the purpose of impounding and caring for animals as prescribed by law.

BITE shall mean a bite or scratch capable of transmitting rabies, which is inflicted by an animal on a human.

CAT shall mean a commonly domesticated member of the Felidae (feline) family, other than a lion, tiger, bobcat, jaguar, panther, leopard, cougar, or other prohibited animal.

DANGEROUS DOG shall mean a dog that makes an unprovoked attack on a person or other animal that causes bodily injury and occurs in a place other than an enclosure in which the dog is being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or a dog that commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

DAY shall mean a calendar day or any part thereof.

DOG shall mean canis familiaris.

QUARANTINE shall mean the strict confinement of a biting animal, in accordance with the Act and the Rules.

RABIES shall mean an acute viral disease of man and animal affecting the central nervous system and usually transmitted by an animal bite.

RULES shall mean the rules adopted by the Texas Department of State Health Services for rabies control and eradication under 25 TAC § 169.21 et seq.

STRAY shall mean roaming with no physical restraint beyond the premises of an animal's owner or keeper.

3.

TERM

The term of this Agreement is for a period of one (1) year commencing on October 1, 2010 and ending on September 30, 2011.

4.
SERVICES BY CITY

A. Hours
City agrees to perform the services annotated in Subsection B. below, for Kennedale between the hours of 8:00 a.m. and 4:00 p.m. only, during the week days and weekends, excluding holidays, with no after hours service provided.

B. Rabies Response
In the manner and to the extent that it deems appropriate and in accordance with the Rules and the Act, City will:

(1) Place animals delivered to it in rabies quarantine; and/or
(2) Euthanize, process and ship for rabies testing animals which are presented by Kennedale to the City.

C. Impoundment of Animals
City will board animals delivered to the City's Animal Care and Control Center by Kennedale.

5.
DUTIES OF KENNEDALE

A. Kennedale agrees that it will retain all responsibility for enforcement of all aspects of the Act not covered in Section 4 of this Agreement, including criminal enforcement.

B. Kennedale agrees that it will pursue, at its discretion, the issuance and execution of warrants or other court orders necessary for the seizure of animals requiring quarantine or testing under Section 4 of this Agreement, whose owners have failed or refused to place them for quarantine or testing. Kennedale further agrees that City is not required to pursue the issuance and execution of such warrants.

6.
IMPOUNDMENT, QUARANTINE AND DISPOSITION OF ANIMALS

A. Any animal presented by a Kennedale resident may be accepted by the City provided that Kennedale shall pay one (1) day's board for such surrendered animals and four (4) four days' board for delivered stray animals, as specified in Exhibit "A." A live, stray animal impounded by the City under this Agreement shall be held for a period of not less than three (3) days, excluding the day it is impounded, unless released earlier to its owner. A quarantined animal shall be held or presented for testing according to the Act and the

Rules. Kennedale shall notify City in writing whether Kennedale does or does not desire that the bite animal be prepared and shipped for testing. Kennedale shall provide in writing to the City the date of the bite incident and the animal's date of release from quarantine.

B. Prior to the expiration of the impoundment period, the City may destroy an impounded animal if the Animal Services Administrator or Animal Control Manager for the City or the Animal Care and Control Center's veterinarian recommends and approves such action.

C. Impounded and/or quarantined animals will be released to their owners upon:
   (1) Proof of identification;
   (2) Receipt or other proof of payment to Kennedale of kenneling fees;
   (3) Purchase of a City license tag if the animal is a dog or cat and the owner resides within the City; and
   (4) Arranging for rabies vaccination for the animal if the animal is a dog or a cat and its vaccination is not current and the animal's owner resides within the City.

D. The ownership of impounded animals that have not been released to their owners on the expiration of the impoundment period reverts to the City, and the animals may be placed for adoption or euthanized, at the sole discretion of the City.

E. All quarantined animals from Kennedale not reclaimed by their owner will be euthanized, and Kennedale will be billed for the cost of quarantine, euthanization and disposal as applicable.

F. Kennedale will be billed for boarding of all impounded animals delivered by Kennedale for the number of days held during the impoundment period and/or for the number of days held up to the date reclaimed by the owner. The number of days, for billing purposes, will begin on the day that the animal is impounded.

7.
EXCLUSIONS

A. Nothing in this Agreement shall be deemed as designating the City or an officer or employee of the City as the "local health authority" or "local rabies control authority" of the City of Kennedale as those terms are defined or used in Title 10 of the Texas Health and Safety Code.

B. Nothing in this Agreement shall be deemed as requiring the City to investigate reports of dangerous dogs, to register dangerous dogs, or otherwise regulate dangerous dogs in the City of Kennedale under the authority of Chapter 822 Subchapter D. of the Texas Health and Safety Code.

C. Nothing in this Agreement shall be deemed as requiring the City to quarantine or present for testing domestic animals that have been bitten by or directly exposed by physical contact to a rabid animal or its fresh tissues.

D. **City shall not impound stray animals if Kennedale fails to enact and maintain rules or ordinances pursuant to Sections 826.015 and 826.033 of the Texas Health and Safety Code that require animals to be restrained at all times.**

8.
RESPONSIBILITY FOR EMPLOYEES

City employees who provide services under this Agreement are deemed to be City employees when providing such services. City will exercise complete control over the hiring, training, supervision, and conduct of such employees. City will be responsible for all wages and applicable payroll deductions, unemployment taxes, workers' compensation, insurance, vacations, holidays, and fringe benefits for such employees and for all uniforms, vehicles, and equipment used by such employees for providing services under this Agreement. Kennedale shall have no direct supervisory authority over such employees except in emergency situations where the exercise of supervision by Kennedale becomes necessary for the resolution of the emergency.

9.
CONSIDERATION

A. As fair compensation for the services rendered by City to Kennedale from October 1, 2011 through September 30, 2012, Kennedale agrees to pay City for its services based on the schedule attached hereto as "Exhibit A", as pertinent, which is hereby incorporated as a part of this Agreement as if it were set forth at length. City may adjust any fee listed in "Exhibit A" during the term of this Agreement by giving Kennedale 120 days written notice. Kennedale will not pay City more than $ 25,000.00 in total, for services rendered during the term of this Agreement. This amount shall herein constitute a **not to exceed** limitation placed upon this Agreement, and when such amount is reached, City will cease providing such services. City agrees to provide the City of Kennedale with an itemized monthly bill. Kennedale agrees to promptly pay such bills upon presentation by the City, such payments to be made from current revenues available to Kennedale, within thirty (30) days of receipt. In the event of the termination of this Agreement, City shall bill Kennedale for any outstanding balance, regardless of the amount, and Kennedale agrees to promptly pay such bill, within thirty (30) days of receipt.

B. Pursuant to the requirements of Section 791.011(d)(3) of the Texas Government Code, the amount due City under subparagraph A. above shall be paid from revenues available to Kennedale in fiscal year October 2011 through September 2012.

10.
LIABILITIES

A. To the extent permitted by law, Kennedale shall be responsible for all work-related deaths, injuries or diseases of Kennedale employees, and, for property damage, personal injury or death caused by Kennedale employees or volunteers relating to work provided pursuant to this Agreement.

B. To the extent permitted by law, City shall be responsible for all work-related deaths, injuries or diseases of City employees, and, for property damage, personal injury or death caused by City employees or volunteers relating to work provided pursuant to this Agreement.

C. Kennedale shall be responsible for all property damages, personal injuries and death arising from the use of City and Kennedale equipment and vehicles caused by Kennedale employees or volunteers pursuant to this Agreement. Furthermore, Kennedale shall be responsible for the repair or replacement of all such equipment and vehicles damaged, destroyed, lost or stolen caused by Kennedale employees or volunteers during the provision of services hereunder.

D. City shall be responsible for all property damages, personal injuries and death arising from the use of City equipment and vehicles caused by City employees or volunteers pursuant to this Agreement. City shall also be responsible for the repair or replacement of all such equipment and vehicles damaged, destroyed, lost or stolen caused by City employees or volunteers during the provision of services hereunder.

11.
IMMUNITY & THIRD PARTIES

A. It is expressly understood and agreed that, in the execution of this Agreement, neither City nor Kennedale waives, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions.

B. Nothing in this Agreement shall be construed to benefit any third party other than an employee or officer of Kennedale or City while in the performance of this Agreement. This Agreement may not be construed to expand the liability of City or Kennedale beyond the scope of Chapter 101 of the Texas Civil Practice and Remedies Code, unless specifically stated herein.

12.
TERMINATION

It is further agreed by and between City and Kennedale, that City and Kennedale shall each have the right to terminate this Agreement upon thirty (30) days' written notice to the other party.

13.
<u>ENTIRETY</u>

This Agreement contains all commitments and agreements of the parties hereto, and no other oral or written commitments shall have any force or effect if not contained herein.

14.
<u>MODIFICATION</u>

This Agreement may be modified by the mutual agreement of the parties, if the modification is in writing and signed by City and Kennedale.

15.
<u>SEVERABILITY</u>

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provisions had never been contained herein.

16.
<u>AUTHORITY</u>

This Agreement is made for City and Kennedale as an Interlocal Agreement pursuant to Chapter 791 of the Texas Government Code.

17.
<u>AUTHORIZATION</u>

The undersigned officer and/or agents of the parties hereto are properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto, and each party hereby certifies to the other that any necessary resolutions extending such authority have been duly passed and are now in full force and effect.

18.
<u>FORCE MAJEURE</u>

It is expressly understood and agreed by the parties to this Agreement that if the performance of any obligations hereunder is delayed by reason of war; civil commotion; acts of God; inclement weather; governmental restrictions, regulations, or interferences; fires; strikes; lockouts, national disasters; riots; material or labor restrictions; transportation problems; or any other circumstances which are reasonably beyond the control of the party obligated or permitted under the terms of this Agreement to do or perform the same, regardless of whether any such circumstance is similar to any of those enumerated or not, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such design or construction requirement shall be extended for a period of time equal to the period such party was delayed.

19.
FISCAL FUNDING LIMITATION

If for any reason, at any time during any term of this Agreement, the Fort Worth City Council fails to appropriate funds sufficient for the City to fulfill its obligations under this Agreement, the City may terminate this Agreement to be effective on the later of (i) thirty (30) days following delivery to Kennedale of written notice of the City's intention to terminate or (ii) the last date for which funding has been appropriated by the City Council for the purposes set forth in this Agreement.

20.
HOMELAND SECURITY

If the United States Department of Homeland Security issues a **Level Orange or Level Red Alert**, City, in its sole discretion, may terminate the Agreement immediately.

EXECUTED in triplicate this ___________ day of ____________________, 20__, in Tarrant County, Texas.

CITY OF FORT WORTH	CITY OF KENNEDALE
_____________________	_____________________
Charles W. Daniels Assistant City Manager	BY:____________________ ITS:____________________
APPROVED AS TO FORM	APPROVED AS TO FORM
_____________________	_____________________
Denis C. McElroy Assistant City Attorney	City Attorney
M&C _____________	
ATTEST:	ATTEST:
_____________________	_____________________
Marty Hendrix City Secretary	City Secretary

"EXHIBIT A"

SCHEDULE OF FEES TO BE PAID BY KENNEDALE

DAILY BOARD FEE	
Kenneling (per dog, cat or other small animal)	\$15.00 per day
Quarantine (per animal)	\$20.00 per day
HEAD PREPARATION AND SHIPMENT	
Per Animal Head	\$100.00
EUTHANIZATION AND DISPOSAL	
Per animal	\$15.00

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Staff Report to the Honorable Mayor and City Council

Date: November 17, 2011

Agenda Item No: CONSENT ITEMS - J.

I. Subject:

Authorize City Manager to sign agreement with the Cub Scouts for the use of Sonora Park for the Scout day camp site.

II. Originated by:

Larry Hoover, Streets and Parks Supervisor

III. Summary:

Thanks for the response,

Kelly,

The Tejas District of the Longhorn Council conducts a Cub Scout Day Camp for boys ranging from 6 to 10 years of age every June. The Tejas District contains Cub Scout Packs from Arlington (South of I20), Kennedale, Mansfield, Forrest Hill, and Everman. The previous year's attendance was about 150 youth and 20-25 adults with previous years that have had as many as 275 youth plus adults in attendance. The normal schedule is 7:30 AM TO 4:00 PM, daily Monday thru Friday; with usually a Friday night campout for the Webeloes age boys (9 and 10 years) and a parent.

This past June, the camp was located in Mansfield at the sports complex off Hwy 360. The location was very hot, very windy, no shade or natural protection, or water source. The kids had fun regardless, with a lot or extra care from the adults involved and a few heat related incidents. For many years prior, the camp was held at the park in Dalworthington Gardens across from the City Hall.

The camp usually has 10-15 activity stations including BB Shooting, Archery, Fishing, crafts stations, Wrist Rockets, Flag Ceremonies, and many other stations in which the cub scout dens move between throughout the day. There special activities where the Fire Department would come by and hose down the boys in the afternoon and sometimes an Egg drop where Careflite might land and take the eggs up and drop them from the Helicopter. There is a headquarters for first aid and administration for the week. The City of Kennedale, fire department, and or police department may even come up with an activity or help host. The Webeloes Overnighter on Friday could be held at the Troop 35 Scout Hut on Broadway.

Sonora Park offers plenty of shade, a natural area, pond for fishing, plenty of room for safe range activities, adjacent parking at the ballparks, the parking lot can easily regulated for drop off in the morning and pick up in the afternoon.
The shear design of the park with its current fences and natural borders makes it very safe location to hold a Day Camp. Of course, the Camp Director and Program Director for 2012 will have to pass a BSA National Camp Inspection, approval from the State of Texas, of course the approval from the City of

Kennedale. The State of Texas regulates youth and adults while at day camp and I am not sure of all the restrictions that the state may impose or limit on public attendance during the posted day camp hours.

Of course, the Water Park could be a real asset to the 2012 Tejas Day Camp during the hot month of June.
Dalworthington Gardens was always a gracious host, but the Longhorn Council wanted to see the Day Camp moved to a site within the Tejas District. With Kennedale being in the center of the Tejas District and such a great venue as Sonora Park, the location would be easily be better than any location in Arlington or Mansfield. For the past 7 years, the Kennedale High School has hosted the Tejas District Merit Badge College each November and December for Boy Scouts to earn up to three Merit Badges.

Just let me know if the parks department or Bob would like to interview any of the previous camp directors for more details
My cell is 817 909 4567.

Jim Fountain
Committee Chair
Tejas District
Longhorn Council

Serving youth for over 60 years

This item was presented to the Park board at the September meeting and the Board unanimously recommends the approval.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

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Staff Report to the Honorable Mayor and City Council

Date: November 17, 2011

Agenda Item No: CONSENT ITEMS - K.

I. Subject:

Final payment and acceptance of project for the Bowman Springs Road Realignment project.

II. Originated by:

Larry Hoover, Streets and Parks Supervisor

III. Summary:

Jackson Construction has submitted the final payment for the improvements for the Bowman Springs Road Realignment project. Staff has performed the necessary inspections and determines the project complete. Staff has allowed the contractor an additional time to complete the establishment of grass coverage for the project as the drought and heat from the summer made this difficult to complete. the final payment is $20,229.62 which brings to total project cost to $2,806,313.61.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Bowman Springs final	Bowman Springs FINAL.xlsx
2.	memo	Final Payment Memo.doc

Pay Estimate Summary Report

Invoice # 16
Invoice Date: 08/31/2011
Dates Submitted: 06/01/2011 - 08/31/2011
Contract # BOWMAN SPRINGS ROAD

Job: 3013

Owner
CITY OF KENNEDALE
405 MUNICIPAL DRIVE
KENNEDALE, TX 76060
USA

Contractor
JACKSON CONSTRUCTION, LTD.
5112 SUN VALLEY DRIVE
FORT WORTH, TX 76119
USA

Owner Code	Description	Contract Quantities	Unit	Unit Price	Contract Amount	Previous Quantities	Current Quantities	Quantities to Date	Current Amount	Amount to Date	% Complete
*1	12" PVC DR18 WATER LINE BY OPEN CUT	4,418.00	LF	$ 27.00	$ 119,286.00	4,418.00	0.00	4,418.00	$ -	$ 119,286.00	100
2	BORE/INSTALL 18" STEEL CASING PIPE	265.00	LF	$ 214.00	$ 56,710.00	265.00	0.00	265.00	$ -	$ 56,710.00	100
*3	12" DIP WATER LINE BY OPEN CUT	288.00	LF	$ 57.00	$ 16,416.00	288.00	0.00	288.00	$ -	$ 16,416.00	100
*4	8" PVC DR18 WATER LINE BY OPEN CUT	375.00	LF	$ 21.00	$ 7,875.00	375.00	0.00	375.00	$ -	$ 7,875.00	100
*5	6" PVC DR18 WATER LINE BY OPEN CUT	49.00	LF	$ 20.00	$ 980.00	49.00	0.00	49.00	$ -	$ 980.00	100
*5A	LOWER 2" WATER LINE	400.00	LF	$ 14.60	$ 5,840.00	400.00	0.00	400.00	$ -	$ 5,840.00	100
6	12" GATE VALVE	6.00	EA	$ 1,800.00	$ 10,800.00	6.00	-1.00	5.00	$ (1,800.00)	$ 9,000.00	83.3
*7	8" GATE VALVE	3.00	EA	$ 900.00	$ 2,700.00	3.00	0.00	3.00	$ -	$ 2,700.00	100
8	6" GATE VALVE	5.00	EA	$ 720.00	$ 3,600.00	5.00	0.00	5.00	$ -	$ 3,600.00	100
*8A	2" GATE VALVE 2/ 12X2 TAPPING SLEEVE	2.00	EA	$ 525.74	$ 1,051.48	2.00	0.00	2.00	$ -	$ 1,051.48	100
9	1" AIR & VACUUM RELEASE VALVE	4.00	EA	$ 5,700.00	$ 22,800.00	4.00	0.00	4.00	$ -	$ 22,800.00	100
10	8" TAPPING SLEEVE & VALVE	1.00	EA	$ 3,000.00	$ 3,000.00	1.00	0.00	1.00	$ -	$ 3,000.00	100
11	12" X 8" RING CONNECTION	2.00	EA	$ 3,000.00	$ 6,000.00	2.00	0.00	2.00	$ -	$ 6,000.00	100
12	16" X 12" RING CONNECTION	1.00	EA	$ 6,000.00	$ 6,000.00	1.00	0.00	1.00	$ -	$ 6,000.00	100
13	LOWER EXIST 16" WATER LINE	20.00	LF	$ 430.00	$ 8,600.00	20.00	0.00	20.00	$ -	$ 8,600.00	100
*14	STD. FIRE HYDRANT ASSEMBLY	4.00	EA	$ 2,700.00	$ 10,800.00	4.00	0.00	4.00	$ -	$ 10,800.00	100
15	REL EXIST FIRE HYDRANT	1.00	EA	$ 750.00	$ 750.00	1.00	0.00	1.00	$ -	$ 750.00	100
16	MECH JOINT DI FITTINGS	4.80	TN	$ 5,600.00	$ 26,880.00	4.80	0.00	4.80	$ -	$ 26,880.00	100
17	TRSFR EXIST WATER SERV TO PROPOSED LINE	2.00	EA	$ 700.00	$ 1,400.00	2.00	0.00	2.00	$ -	$ 1,400.00	100
*17A	3/4" WATER SERVICE	1.00	EA	$ 1,665.87	$ 1,665.87	1.00	0.00	1.00	$ -	$ 1,665.87	100
18	REL EXIST WATER METER	1.00	EA	$ 300.00	$ 300.00	1.00	0.00	1.00	$ -	$ 300.00	100
*18A	REM EXIST 2" WATER SERVICE	1.00	EA	$ 8,800.00	$ 8,800.00	1.00	0.00	1.00	$ -	$ 8,800.00	100

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Contract # BOWMAN SPRINGS ROAD

Owner
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405 MUNICIPAL DRIVE
KENNEDALE, TX 76060
USA

Contractor
JACKSON CONSTRUCTION, LTD.
5112 SUN VALLEY DRIVE
FORT WORTH, TX 76119
USA

Job: 3013

Owner Code	Description	Contract Quantities	Unit	Unit Price	Contract Amount	Previous Quantities	Current Quantities	Quantities to Date	Current Amount	Amount to Date	% Complete
*19	TRENCH SAFETY FOR WATER MAIN	5,130.00	LF	$ 1.00	$ 5,130.00	5,130.00	0.00	5,130.00	$ -	$ 5,130.00	100
*20	CUT/PLUG EXIST WATER LINE	6.00	EA	$ 450.00	$ 2,700.00	6.00	0.00	6.00	$ -	$ 2,700.00	100
*20A	CUT&PLUG EXIST WATER SERVICE	1.00	EA	$ 254.40	$ 254.40	1.00	0.00	1.00	$ -	$ 254.40	100
21	REM EXIST WATER	1,170.00	LF	$ 0.50	$ 585.00	1,170.00	0.00	1,170.00	$ -	$ 585.00	100
22	CONCRETE ENCASEMENT	205.00	LF	$ 38.00	$ 7,790.00	205.00	0.00	205.00	$ -	$ 7,790.00	100
23	4' DIA. SEWER MANHOLE	3.00	EA	$ 1,800.00	$ 5,400.00	3.00	0.00	3.00	$ -	$ 5,400.00	100
24	4' DIA. DROP SEWER MANHOLE	1.00	EA	$ 2,400.00	$ 2,400.00	1.00	0.00	1.00	$ -	$ 2,400.00	100
25	4' DIA. SEWER MANHOLE OVER EXISTING SS LIN	6.00	EA	$ 2,000.00	$ 12,000.00	6.00	0.00	6.00	$ -	$ 12,000.00	100
26	RECON EXIST SEWER MANHOLE	2.00	EA	$ 2,000.00	$ 4,000.00	2.00	0.00	2.00	$ -	$ 4,000.00	100
27	EXTRA MANHOLE DEPTH	47.00	VF	$ 188.00	$ 8,836.00	47.00	0.00	47.00	$ -	$ 8,836.00	100
*28	12" SDR26 PVC SEWER	340.00	LF	$ 30.00	$ 10,200.00	340.00	0.00	340.00	$ -	$ 10,200.00	100
29	10" SDR35 PVC SEWER	517.00	LF	$ 26.00	$ 13,442.00	517.00	0.00	517.00	$ -	$ 13,442.00	100
30	10" SDR26 PVC SEWER	282.00	LF	$ 33.00	$ 9,306.00	282.00	0.00	282.00	$ -	$ 9,306.00	100
31	8" SDR35 PVC SEWER	474.00	LF	$ 25.00	$ 11,850.00	474.00	0.00	474.00	$ -	$ 11,850.00	100
*31A	SANITARY SEWER SERVICE	2.00	EA	$ 1,372.12	$ 2,744.24	2.00	0.00	2.00	$ -	$ 2,744.24	100
32	CUT/PLUG EXIST SEWER	6.00	EA	$ 250.00	$ 1,500.00	6.00	0.00	6.00	$ -	$ 1,500.00	100
33	REM EXIST SEWER	282.00	LF	$ 3.00	$ 846.00	282.00	0.00	282.00	$ -	$ 846.00	100
34	REM EXIST SEWER MANHOLE	1.00	EA	$ 350.00	$ 350.00	1.00	0.00	1.00	$ -	$ 350.00	100
*35	TV INSPECTION	1,613.00	LF	$ 1.00	$ 1,613.00	1,641.00	0.00	1,641.00	$ -	$ 1,641.00	101.7
*36	TRENCH SAFETY FOR SEWER	1,613.00	LF	$ 1.00	$ 1,613.00	1,613.00	0.00	1,613.00	$ -	$ 1,613.00	100
37	ASPHALT PVMT REPAIR	294.00	LF	$ 15.00	$ 4,410.00	0.00	64.00	64.00	$ 960.00	$ 960.00	21.8
38	MISC. UTILITY ALLOWANCE ($5,000.00)	1.00	LS	$ 5,000.00	$ 5,000.00	1.00	0.00	1.00	$ -	$ 5,000.00	100

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Job: 3013

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KENNEDALE, TX 76060
USA

Contractor
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5112 SUN VALLEY DRIVE
FORT WORTH, TX 76119
USA

Owner Code	Description	Contract Quantities	Unit	Unit Price	Contract Amount	Previous Quantities	Current Quantities	Quantities to Date	Current Amount	Amount to Date	% Complete
		WATER & SEWER							**$ (840.00)**	**$ 429,001.99**	

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Owner Code	Description	Contract Quantities	Unit	Unit Price	Contract Amount	Previous Quantities	Current Quantities	Quantities to Date	Current Amount	Amount to Date	% Complete
39	GENERAL SITE PREP	1.00	LS	$ 75,000.00	$ 75,000.00	1.00	0.00	1.00	$ -	$ 75,000.00	100
*39A	REMOB NORTH END	1.00	EA	$ 1,921.27	$ 1,921.27	1.00	0.00	1.00	$ -	$ 1,921.27	100
*40	UNCL STREET EXCAVATION	16,901.00	CY	$ 9.00	$ 152,109.00	16,901.00	0.00	16,901.00	$ -	$ 152,109.00	100
41	UNCL CHANNEL EXCAVATION	8,191.00	CY	$ 5.00	$ 40,955.00	8,191.00	0.00	8,191.00	$ -	$ 40,955.00	100
*42	OFFSISTE UNCL BORROW	2,200.00	CY	$ 4.50	$ 9,900.00	2,200.00	0.00	2,200.00	$ -	$ 9,900.00	100
43	7'X3.5' REINF CONCRETE BOX PIPE	80.00	LF	$ 194.00	$ 15,520.00	80.00	0.00	80.00	$ -	$ 15,520.00	100
44	5'X5' REINF CONCRETE BOX PIPE	241.00	LF	$ 140.00	$ 33,740.00	240.00	0.00	240.00	$ -	$ 33,600.00	99.6
45	54" CL.III RCP	90.00	LF	$ 121.00	$ 10,890.00	90.00	0.00	90.00	$ -	$ 10,890.00	100
46	42" CL.III RCP	112.00	LF	$ 85.00	$ 9,520.00	112.00	0.00	112.00	$ -	$ 9,520.00	100
*47	36" CL.III RCP	517.00	LF	$ 66.00	$ 34,122.00	517.00	0.00	517.00	$ -	$ 34,122.00	100
*48	30" CL.III RCP	951.00	LF	$ 51.00	$ 48,501.00	951.00	0.00	951.00	$ -	$ 48,501.00	100
*49	24" CL.III RCP	1,504.00	LF	$ 43.00	$ 64,672.00	1,534.00	0.00	1,534.00	$ -	$ 65,962.00	102
50	21" CL.III RCP	323.00	LF	$ 41.00	$ 13,243.00	288.00	0.00	288.00	$ -	$ 11,808.00	89.2
*51	18" CL.III RCP	350.00	LF	$ 39.00	$ 13,650.00	350.00	0.00	350.00	$ -	$ 13,650.00	100
525	7'X3.5' CONC 3:1 SLOPING HEADWALL	1.00	EA	$ 3,500.00	$ 3,500.00	1.00	0.00	1.00	$ -	$ 3,500.00	100
53	54" CONC TYPE B HEADWALL	1.00	EA	$ 2,800.00	$ 2,800.00	1.00	0.00	1.00	$ -	$ 2,800.00	100
54	42" CONC TYPE B HEADWALL	1.00	EA	$ 2,600.00	$ 2,600.00	1.00	0.00	1.00	$ -	$ 2,600.00	100
*54A	36" 3:1 SLOPED HEADWALL	4.00	EA	$ 2,134.82	$ 8,539.28	4.00	0.00	4.00	$ -	$ 8,539.28	100
55	30" CONC 3:1 SLOPING HEADWALL	1.00	EA	$ 1,300.00	$ 1,300.00	1.00	0.00	1.00	$ -	$ 1,300.00	100
56	24" CONC 4:1 SLOPING HEADWALL	1.00	EA	$ 1,000.00	$ 1,000.00	1.00	0.00	1.00	$ -	$ 1,000.00	100
57	24" CONC 3:1 SLOPING HEADWALL	2.00	EA	$ 900.00	$ 1,800.00	2.00	0.00	2.00	$ -	$ 1,800.00	100

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JACKSON CONSTRUCTION, LTD.
5112 SUN VALLEY DRIVE
FORT WORTH, TX 76119
USA

Job: 3013

Owner Code	Description	Contract Quantities	Unit	Unit Price	Contract Amount	Previous Quantities	Current Quantities	Quantities to Date	Current Amount	Amount to Date	% Complete
*58	18" CONC 3:1 SLOPING HEADWALL	0.00	EA	$ 700.00	$ -	0.00	0.00	0.00	$ -	$ -	0
*58A	18" CONC 4:1 SLOPED HDWL	1.00	EA	$ 800.00	$ 800.00	1.00	0.00	1.00	$ -	$ 800.00	100
59	5'X5' DROP INLET W/CONC APRON	1.00	EA	$ 3,300.00	$ 3,300.00	1.00	0.00	1.00	$ -	$ 3,300.00	100
*59A	DROP INLET ADJUSTMENT/GRATES	1.00	LS	$ 1,334.36	$ 1,334.36	1.00	0.00	1.00	$ -	$ 1,334.36	100
610	4'X4' DROP INLET W/CONCRETE APRON	3.00	EA	$ 3,000.00	$ 9,000.00	3.00	0.00	3.00	$ -	$ 9,000.00	100
61	4' DIA. MANHOLE RISER FOR BOX PIPE	2.00	EA	$ 1,300.00	$ 2,600.00	2.00	0.00	2.00	$ -	$ 2,600.00	100
62	5'X5' STORM DRAIN MANHOLE	1.00	EA	$ 4,100.00	$ 4,100.00	1.00	0.00	1.00	$ -	$ 4,100.00	100
63	4'X4' STORM DRAIN MANHOLE	4.00	EA	$ 2,800.00	$ 11,200.00	4.00	0.00	4.00	$ -	$ 11,200.00	100
*64	10' CURB INLET	16.00	EA	$ 2,700.00	$ 43,200.00	16.00	0.00	16.00	$ -	$ 43,200.00	100
*65	15' CURB INLET	1.00	EA	$ 3,800.00	$ 3,800.00	1.00	0.00	1.00	$ -	$ 3,800.00	100
*65A	20' CURB INLET	2.00	EA	$ 5,978.85	$ 11,957.70	2.00	0.00	2.00	$ -	$ 11,957.70	100
*66	CONVERT EXISTING CURB INLET TO MANHOLE	0.00	EA	$ 3,600.00	$ -	0.00	0.00	0.00	$ -	$ -	0
*66A	REM EXIST CURN INTLE & CONS PIPE EXTENSIOI	2.00	EA	$ 3,600.00	$ 7,200.00	2.00	0.00	2.00	$ -	$ 7,200.00	100
67	4'X4' CONCRETE PAD	2.00	EA	$ 150.00	$ 300.00	2.00	0.00	2.00	$ -	$ 300.00	100
68	TRENCH SAFETY FOR STORM DRAIN	3,916.00	LF	$ 1.00	$ 3,916.00	3,842.00	0.00	3,842.00	$ -	$ 3,842.00	98.1
*69	4' WIDE REINFORCED CONCRETE FLUME	2,222.00	SF	$ 6.00	$ 13,332.00	2,222.00	0.00	2,222.00	$ -	$ 13,332.00	100
70	BAR DITCH & SWALE GRADING	2,677.00	LF	$ 3.00	$ 8,031.00	2,677.00	0.00	2,677.00	$ -	$ 8,031.00	100
*71	18" ROCK RIPRAP FOR STORM DRAIN OUTFALL	147.00	SY	$ 62.00	$ 9,114.00	147.00	0.00	147.00	$ -	$ 9,114.00	100
72	18" ROCK GABION MATTRESS	105.00	SY	$ 144.00	$ 15,120.00	105.00	0.00	105.00	$ -	$ 15,120.00	100
73	REMOVE EXISTING PAVEMENT & DRIVEWAY	5,172.00	SY	$ 2.50	$ 12,930.00	5,172.00	0.00	5,172.00	$ -	$ 12,930.00	100
74	REMOVE EXISTING CONCRETE CURB & GUTTER	698.00	LF	$ 3.00	$ 2,094.00	698.00	0.00	698.00	$ -	$ 2,094.00	100
75	8" CEMENT STABILIZED SUBGRADE	27,285.00	SY	$ 1.60	$ 43,656.00	27,285.00	0.00	27,285.00	$ -	$ 43,656.00	100
76	CEMENT FOR STABILIZED SUBGRADE (20 LB/SY)	273.00	TN	$ 100.00	$ 27,300.00	273.00	0.00	273.00	$ -	$ 27,300.00	100

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Job: 3013

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*76A	CRSHD STONE FLEXBASE	94.00	SY	$ 10.00	$ 940.00	94.00	0.00	94.00	$ -	$ 940.00	100
*76B	BALLAST ROCK INSTALL	52.00	CY	$ 59.00	$ 3,068.00	52.00	0.00	52.00	$ -	$ 3,068.00	100
*76C	FILTER FABRIC	1,680.00	SF	$ 1.00	$ 1,680.00	1,680.00	0.00	1,680.00	$ -	$ 1,680.00	100
*77	8" CL.C REINFORCED CONCRETE PAVEMENT	13,749.00	SY	$ 24.00	$ 329,976.00	13,749.00	0.00	13,749.00	$ -	$ 329,976.00	100
*78	9" CL.C REINFORCED CONCRETE PAVEMENT	7,946.00	SY	$ 27.00	$ 214,542.00	7,946.00	0.00	7,946.00	$ -	$ 214,542.00	100
*79	5" CONCRETE CURB & GUTTER	380.00	LF	$ 25.00	$ 9,500.00	300.00	80.00	380.00	$ 2,000.00	$ 9,500.00	100
80	10" HMAC PAVEMENT	646.00	SY	$ 32.00	$ 20,672.00	646.00	0.00	646.00	$ -	$ 20,672.00	100
*81	8" CONTINUOUSLY REINF CONCRETE PAVEMEN	1,447.00	SY	$ 64.00	$ 92,608.00	1,447.00	0.00	1,447.00	$ -	$ 92,608.00	100
*82	4" TYPE B HMAC UNDER 8" CRCP	1,447.00	SY	$ 14.00	$ 20,258.00	1,447.00	0.00	1,447.00	$ -	$ 20,258.00	100
83	8" HMAC PAVEMENT	2,315.00	SY	$ 25.00	$ 57,875.00	2,469.00	0.00	2,469.00	$ -	$ 61,725.00	106.7
84	PAVEMENT STRIPING & MARKINGS	1.00	LS	$ 21,000.00	$ 21,000.00	1.00	0.00	1.00	$ -	$ 21,000.00	100
85	PAVEMENT REFLECTORS	1.00	LS	$ 1,500.00	$ 1,500.00	1.00	0.00	1.00	$ -	$ 1,500.00	100
86	SIGNAGE	1.00	LS	$ 4,000.00	$ 4,000.00	1.00	0.00	1.00	$ -	$ 4,000.00	100
*86A	RELOCATE RR SIGNS	1.00	LS	$ 1,000.00	$ 1,000.00	1.00	0.00	1.00	$ -	$ 1,000.00	100
*87	6" REINFORCED CONCRETE DRIVEWAY	944.00	SY	$ 50.00	$ 47,200.00	944.00	0.00	944.00	$ -	$ 47,200.00	100
88	6" HMAC DRIVEWAY	185.00	SY	$ 22.00	$ 4,070.00	185.00	0.00	185.00	$ -	$ 4,070.00	100
89	STAMPED CONCRETE MEDIAN	602.00	SF	$ 7.00	$ 4,214.00	602.00	0.00	602.00	$ -	$ 4,214.00	100
90	GRAVEL DRIVEWAY	28.00	SY	$ 4.00	$ 112.00	28.00	0.00	28.00	$ -	$ 112.00	100
91	4' CONCRETE SIDEWALK	18,752.00	SF	$ 3.00	$ 56,256.00	18,752.00	0.00	18,752.00	$ -	$ 56,256.00	100
92	SIDEWALK WALL (1' TO 2' TALL)	145.00	LF	$ 20.00	$ 2,900.00	150.00	0.00	150.00	$ -	$ 3,000.00	103.4
93	TYPE 1 SIDEWALK RAMP	4.00	EA	$ 700.00	$ 2,800.00	2.00	2.00	4.00	$ 1,400.00	$ 2,800.00	100
94	TYPE 7 SIDEWALK RAMP	3.00	EA	$ 700.00	$ 2,100.00	0.00	3.00	3.00	$ 2,100.00	$ 2,100.00	100
95	CONCRETE HEADER	245.00	LF	$ 15.00	$ 3,675.00	245.00	0.00	245.00	$ -	$ 3,675.00	100

Pay Estimate Summary Report

Invoice # 16
Invoice Date: 08/31/2011
Dates Submitted: 06/01/2011 - 08/31/2011
Contract # BOWMAN SPRINGS ROAD

Owner
CITY OF KENNEDALE
405 MUNICIPAL DRIVE
KENNEDALE, TX 76060
USA

Contractor
JACKSON CONSTRUCTION, LTD.
5112 SUN VALLEY DRIVE
FORT WORTH, TX 76119
USA

Job: 3013

Owner Code	Description	Contract Quantities	Unit	Unit Price	Contract Amount	Previous Quantities	Current Quantities	Quantities to Date	Current Amount	Amount to Date	% Complete
*96	6' CHAIN LINK FENCE W/3 STRAND BARBED WIF	2,437.00	LF	$ 12.00	$ 29,244.00	2,439.00	0.00	2,439.00	$ -	$ 29,268.00	100.1
*96A	4' CHAIN LINK FENCE	296.00	LF	$ 11.00	$ 3,256.00	296.00	0.00	296.00	$ -	$ 3,256.00	100
*97	30' - 6' CHAIN LINK GATES W/3 STRAND BARBEI	0.00	EA	$ 1,200.00	$ -	0.00	0.00	0.00	$ -	$ -	0
*97A	50'X6' CHAINLINK GATE W/ 2 STRAND BARB WI	4.00	EA	$ 4,200.00	$ 16,800.00	4.00	0.00	4.00	$ -	$ 16,800.00	100
98	RELOCATE SCHOOL ZONE SIGNAL & SIGNS	1.00	LS	$ 10,000.00	$ 10,000.00	1.00	0.00	1.00	$ -	$ 10,000.00	100
*99	2" SCH 40 PVC FOR LIGHTING CONDUIT CROSSII	400.00	LF	$ 5.00	$ 2,000.00	200.00	400.00	600.00	$ 2,000.00	$ 3,000.00	150
*99A	2" PVC EMPTY, INSTALLED VIA OPEN TRENCH	4,300.00	LF	$ 7.35	$ 31,605.00	5,335.00	120.00	5,455.00	$ 882.00	$ 40,094.25	126.9
*99B	PRECAST FOUNDATION OLDCASTLE	19.00	EA	$ 1,260.00	$ 23,940.00	19.00	0.00	19.00	$ -	$ 23,940.00	100
*99C	12"X12" STREETLIGHT PULL BOX	2.00	EA	$ 735.00	$ 1,470.00	2.00	0.00	2.00	$ -	$ 1,470.00	100
*99D	STREET LIGHT PEDESTAL	1.00	EA	$ 4,800.00	$ 4,800.00	1.00	0.00	1.00	$ -	$ 4,800.00	100
*99D	BRIDGE LIGHTING ASSEMBLY	4.00	EA	$ 6,320.00	$ 25,280.00	4.00	0.00	4.00	$ -	$ 25,280.00	100
100	STANDARD ROAD BARRICADE	2.00	EA	$ 600.00	$ 1,200.00	2.00	0.00	2.00	$ -	$ 1,200.00	100
101	TRAFFIC CONTROL	1.00	LS	$ 18,000.00	$ 18,000.00	1.00	0.00	1.00	$ -	$ 18,000.00	100
*101	TRAFFIC CONTROL	6.00	MO	$ 1,500.00	$ 9,000.00	4.00	2.00	6.00	$ 3,000.00	$ 9,000.00	100
102	SILT FENCE TO PROTECT CONSERVATION ZONE	1,070.00	LF	$ 1.30	$ 1,391.00	1,070.00	0.00	1,070.00	$ -	$ 1,391.00	100
103	EROSION CONTROL & SWPPP	1.00	LS	$ 15,000.00	$ 15,000.00	1.00	0.00	1.00	$ -	$ 15,000.00	100
		PAVING & DRAINAGE							**$ 11,382.00**	**$ 1,887,603.86**	
104	FLEXIBLE BASE TYPE D GRADE 1 CL.C	257.00	CY	$ 37.00	$ 9,509.00	257.00	0.00	257.00	$ -	$ 9,509.00	100
105	DRILLED SHAFT 36"	366.00	LF	$ 123.00	$ 45,018.00	373.18	0.00	373.18	$ -	$ 45,901.14	102
106	CL C CONCRETE FOR ABUTMENTS	50.00	CY	$ 490.00	$ 24,500.00	50.00	0.00	50.00	$ -	$ 24,500.00	100
107	CL C CONCRETE FOR BENTS	71.00	CY	$ 495.00	$ 35,145.00	71.00	0.00	71.00	$ -	$ 35,145.00	100
108	CL S CONCRTE FOR APPROACH SLAB	121.00	CY	$ 330.00	$ 39,930.00	121.00	0.00	121.00	$ -	$ 39,930.00	100

Pay Estimate Summary Report

Invoice # 16
Invoice Date: 08/31/2011
Dates Submitted: 06/01/2011 - 08/31/2011
Contract # BOWMAN SPRINGS ROAD

Owner
CITY OF KENNEDALE
405 MUNICIPAL DRIVE
KENNEDALE, TX 76060
USA

Contractor
JACKSON CONSTRUCTION, LTD.
5112 SUN VALLEY DRIVE
FORT WORTH, TX 76119
USA

Job: 3013

Owner Code	Description	Contract Quantities	Unit	Unit Price	Contract Amount	Previous Quantities	Current Quantities	Quantities to Date	Current Amount	Amount to Date	% Complete
109	CL S CONCRETE FOR SIDEWALK	19.00	CY	$ 430.00	$ 8,170.00	19.00	0.00	19.00	$ -	$ 8,170.00	100
110	CL S CONCRETE FOR SLAB	6,930.00	SF	$ 13.00	$ 90,090.00	6,930.00	0.00	6,930.00	$ -	$ 90,090.00	100
*111	PRESTRESSED CONCRETE GIRDERS TX28	762.00	LF	$ 154.00	$ 117,348.00	762.00	0.00	762.00	$ -	$ 117,348.00	100
112	OPAQUE SEALER FINISH	1.00	LS	$ 5,300.00	$ 5,300.00	1.00	0.00	1.00	$ -	$ 5,300.00	100
113	STONE PROTECTION RIP RAP	462.00	CY	$ 68.00	$ 31,416.00	462.00	8.00	470.00	$ 544.00	$ 31,960.00	101.7
114	CONCRETE MOW STRIP 5"	17.00	CY	$ 340.00	$ 5,780.00	17.00	0.00	17.00	$ -	$ 5,780.00	100
115	RAIL (TYPE T411)	348.00	LF	$ 107.00	$ 37,236.00	348.00	0.00	348.00	$ -	$ 37,236.00	100
116	SEALED EXPANSION JOINT 4"	89.00	LF	$ 120.00	$ 10,680.00	89.00	0.00	89.00	$ -	$ 10,680.00	100
117	METAL BEAM GUARD FENCE	156.00	LF	$ 21.00	$ 3,276.00	156.00	0.00	156.00	$ -	$ 3,276.00	100
118	METAL BEAM GUARD FENCE TRANSITION	3.00	EA	$ 800.00	$ 2,400.00	3.00	0.00	3.00	$ -	$ 2,400.00	100
119	SINGLE GUARDRAIL TERMINAL	2.00	EA	$ 3,000.00	$ 6,000.00	2.00	0.00	2.00	$ -	$ 6,000.00	100
120	TERMINAL ANCHOR SECTION	1.00	EA	$ 520.00	$ 520.00	1.00	0.00	1.00	$ -	$ 520.00	100
121	ELECTRIAL CONDUIT 2" DIA.	400.00	LF	$ 7.00	$ 2,800.00	400.00	0.00	400.00	$ -	$ 2,800.00	100
		BRIDGE							**$ 544.00**	**$ 476,545.14**	
NEW	HANDRAIL	1.00	EA	$ 1,703.62	$ 1,703.62	0.00	1.00	1.00	$ 1,703.62	$ 1,703.62	0
*	TEMP ACCESS ROAD	1.00	EA	$ 11,459.00	$ 11,459.00	1.00	0.00	1.00	$ -	$ 11,459.00	100
		CHANGE ORDER							**$ 1,703.62**	**$ 13,162.62**	
		Totals:			$ 2,797,004.22				$ 12,789.62	$ 2,806,313.61	100.4

Pay Estimate Summary Report

Invoice # 16	Owner	Contractor
Invoice Date: 08/31/2011	CITY OF KENNEDALE	JACKSON CONSTRUCTION, LTD.
Dates Submitted: 06/01/2011 - 08/31/2011	405 MUNICIPAL DRIVE	5112 SUN VALLEY DRIVE
Contract # BOWMAN SPRINGS ROAD	KENNEDALE, TX 76060	FORT WORTH, TX 76119
	USA	USA

Job: 3013

Owner Code	Description	Contract Quantities	Unit	Unit Price	Contract Amount	Previous Quantities	Current Quantities	Quantities to Date	Current Amount	Amount to Date	% Complete

Original Contract Amount	$ 2,548,158.00
Change Order Amount	$ 248,846.22
Total Contract	**$ 2,797,004.22**
Work Completed to Date	$ 2,806,313.61
Stored Material	$ -
Pending Change Orders	$ -
Total Complete/Stored/Pending	$ 2,806,313.61
Less Retainage	$ -
Total (Less Retainage)	$ 2,806,313.61
Adjustments	$ -
Less Previously Paid	$ 2,786,083.99
Amount Due This Request	$ 20,229.62

Approved By: ________________________________

Owner

Approved By: ________________________________

Contractor

Approved By: ________________________________

* include quantities from Change Orders

TEAGUE NALL AND PERKINS

Civil Engineering | Surveying | Landscape Architecture | Planning

Memorandum

To: Larry Hoover – City of Kennedale

From: Sol Stigall, P.E.

cc: KEN 08305-02 file

Date: October 25, 2011

Re: **Bowman Springs Road – Final Payment to Jackson Construction**

We have reviewed the construction items for the Bowman Springs Road project and believe all construction has been completed in general conformance to the plans and specifications. Therefore, we recommend final payment be made to Jackson Construction in the amount of **$20,229.62** once all items identified in the Bowman Springs Final Punch List, dated 08/10/11, have been addressed to the City's satisfaction.

If the City has identified any other outstanding issues not specifically noted in the final punch list, these should also be addressed prior to final payment.

Thank you,

Sol Stigall, P.E., CFM
TEAGUE NALL AND PERKINS, INC.
TBPE #F-230
1100 Macon Street
Fort Worth, Texas 76102
817.665.7192 direct
817.336.5773 main
817.336.2813 fax
www.tnp-online.com

Staff Report to the Honorable Mayor and City Council

Date: November 17, 2011

Agenda Item No: CONSENT ITEMS - L.

I. Subject:

Discuss and consider an AN ORDINANCE OF THE CITY OF KENNEDALE, AMENDING CHAPTER 23, ARTICLE III OF THE KENNEDALE CITY CODE (1992), REQUIRING PERMITS TO DISCHARGE INDUSTRIAL WASTE INTO THE KENNEDALE SANITARY SEWER SYSTEM; AUTHORIZING THE DIRECTOR OF THE PUBLIC WORKS TO PROMULGATE REGULATIONS PERTAINING TO SUCH PERMITTING, PROVIDING FOR DEFINITIONS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; REPEALING ORDINANCE NO. 308 (2005); PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

II. Originated by:

Larry Ledbetter, Director of Public Works

III. Summary:

In 2009 the City of Fort Worth was chosen by the EPA and the TCEQ for a "Pilot Program" involving the Streamlining of the Industrial Waste Ordinance. The process would incorporate aspects of the EPA model ordinance and would be utilized on a national basis when completed. As a Customer City of Fort Worth, the City of Kennedale was included in the streamlining process along with all other customer cities. As a customer city of both Ft. Worth, Arlington and TRA, the City of Kennedale requested that the streamlining process be carried even further, to include a single ordinance that would cover the various mutli-jurisdictional angencies involved. Kennedale staff worked with these agencies to create the new ordinance.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Industrial Waste Ordinance (show changes)	IWO streamline showing changes.doc
2.	Industrial Waste Ordinance	IWO streamline 2011.doc

KENNEDALE

CHAPTER 23 ARTICLE III

DIVISION 3. DISCHARGE REGULATIONS*

***Editor's note:** Ord. No. 308, § 1, adopted Aug. 11, 2005, repealed the former Div. 3, §§ 23-121--23-145, and enacted a new Div. 3 as set out herein. The former Div. 3 pertained to similar subject matter and derived from Ord. No. 84-8, § I(14-32.1, 14-32.2, 14-33--14-37), adopted March 8, 1984; Ord. No. 14, §§ 1--7, adopted Oct. 10, 1991.

State law references: Discharge regulations authorized, V.T.C.A., Water Code § 26.176.

Sec. 23-121. Definitions.

When used in this division, these terms shall be defined as follows:

Abnormal sewage. Any industrial waste discharged into the authority's sanitary sewer which, when analyzed, shows by weight a total suspended solids (TSS) concentration greater than 250 mg/L or a biochemical oxygen demand (BOD) concentration greater than 250 mg/L. In addition, the authority may judge independently a waste's suitability for discharge to the POTW that requires additional treatment, based upon BOD, TSS or other characteristics, as abnormal. Any waste in this classification must be made acceptable for discharge into the POTW as defined in this division.

Act. The Clean Water Act (33 U.S.C. 1251 et seq.), as amended.

Aliquot: a measured portion.

Approval authority. ~~The Regional Administrator of the EPA, or the~~ Director of the Texas Commission on Environmental Quality ("TCEQ").

Authority. The City of Kennedale, Texas.

Authorized representative of the industrial user. Authorized representatives (authorized signatories) for wastewater discharge permit applications and for reports submitted under section 23-125, of this division are:

(1) A responsible corporate officer, if the discharger submitting the application or report is a corporation. This includes the president, vice-president, secretary or treasurer 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.

(2) 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 or any control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(3) For a partnership or sole proprietorship, a general partner of the proprietor, respectively.

(4) The principal executive officer or director having responsibility for the overall operation of the facility if the discharger is a federal, state or local governmental entity, or their agents.

(5) A duly authorized representative of the individual designated in subsections (1) through (4) above if:
a. The authorization is made in writing by the individual described above in subsections (1) through (4); and
b. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates (such as a plant manager), or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company;
c. The written authorization is submitted to the city. If an authorization is no longer accurate because a different individual or position has responsibility, a new authorization must be submitted to the city prior to or together with any reports signed by an authorized representative.

Best management practices (BMP). Means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 23-123(e) [40 CFR 403.5(a)(1) and (b)] and to prevent or reduce ~~the~~ pollution ~~of the MS4 and waters of the United States~~. 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

Biochemical oxygen demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees Centigrade, expressed as parts per million by weight or in terms of milligrams per liter.

Bypass. The intentional diversion of waste streams or wastewater from any portion of a discharger's wastewater treatment equipment or pretreatment facility.

Categorical industrial user. An Industrial User subject to a categorical Pretreatment Standard or categorical standard.

Categorical pretreatment standards. Limitations on pollutant discharges to POTW's promulgated by EPA in accordance with section 307 of the Clean Water Act, that apply to specified process wastewaters of particular industrial categories [40 CFR 403.6 and Parts 405--471].

CFR. Code of Federal Regulations.

City. The City of Kennedale, Texas.

COD (Chemical Oxygen Demand). The measure of the oxygen-consuming capacity of inorganic matter present in the water or wastewater expressed in mg/L as determined by the amount of oxidant consumed from a chemical reflux. Such term does not, however, differentiate between stable and unstable organic matter, and therefore does not necessarily correlate with BOD.

Combined wastestream formula (CWF). A procedure found in 40 CFR 403.6 (e) for calculating fixed alternative discharge limits at industrial facilities applicable when regulated process wastewater, subject to a categorical pretreatment standard, is mixed with non-regulated wastewaters prior to sampling. ~~treatment.~~

Composite sample. A mixture of grab samples collected at the same sample point at different times and composed of not less than four (4) samples. The series of samples may be collected on a time or flow proportional basis.
(1) Time proportional composite sample. A sampling method which combines discrete samples of constant volume collected at constant time intervals (e.g., two hundred (200) milliliter samples collected every half hour for a twenty-four-hour period).
(2) Flow proportional composite sample. A sampling method which combines discrete samples collected over time, based on the flow of the waste stream being sampled. There are two (2) methods used to collect this type of sample. One method collects a constant sample volume at time intervals which vary based on the stream flow [e.g., two hundred (200) milliliters of sample collected for every five thousand (5,000) gallons discharged]. The other method collects samples of varying volume, based on stream flow, at constant time intervals.
(3) Flow proportional composite will be used only in locations that have the capability to measure flow during the sampling period.

Contaminated. Means containing a harmful quantity of any substance.

Control authority. The City of Fort Worth, Texas or the Trinity River Authority, as holders of the respective Texas Pollutant Discharge Elimination System (TPDES) permits and the City of Arlington as holder of the interlocal wastewater contract with the City of Kennedale.

Cooling water. The water discharged from any system of condensation such as air conditioning, cooling, refrigeration or water used as a coolant in cooling towers where the only pollutant is thermal.

Director. The director of public works of the city, or his/her authorized representative.

Discharge. In its verb form: to deposit, conduct, drain edit, throw, run, allow to seep or otherwise release or dispose; to allow, permit or suffer any of these acts or omissions. In its noun form: the product of any of these acts.

Discharger. Any user discharging an effluent into a POTW by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, intercepting ditches, and all constructed devices and appliances appurtenant thereto. The term includes owners and occupants of such premises.

Disposal: The discharge, deposit, injection, dumping, spilling, leaking or placing of industrial, liquid or hazardous waste into or on land, water or the POTW.

EPA. Environmental Protection Agency of the federal government.

Existing source. Any source of discharge, the construction or operation of which commenced prior to the publication by the EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the act.

Garbage. Animal and vegetable waste or residue from preparation, cooking or dispensing of food or from the handling, storage, and sale of food products and produce.

Generator: A person who causes, creates, generates, or otherwise produces waste.

gpd. Gallons per day.

Grab sample. A sample which is taken from a waste stream on a one-time basis with no regard to the flow of the waste stream and without consideration of time. The sample is collected over a period of time not exceeding fifteen (15) minutes.

Hazardous Waste: Any liquid, semi-liquid or solid waste (or combination of wastes), which because of its quantity, concentration, physical, chemical or infectious characteristics is:

a. Identified as hazardous waste in 40CFR Part 261; or

b. Identified or listed as a hazardous waste under the Texas Solid Waste Disposal Act, Texas Health and Safety Code, Chapter 361.

Indirect discharge or discharge. The introduction of pollutants into a POTW from any non-domestic source regulated under section 307(b), (c) or (d) of the act.

Industrial waste. Solid, liquid or gaseous waste resulting from any industrial, manufacturing, trade, or business process or from the development, recovery or processing of natural resources.

Industrial user or user. A source of indirect discharge.

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

~~The daily composite sample is the concentration of discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.~~

~~The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.~~

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

(1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(2) Therefore is a cause of a violation of any requirement of the POTW's TPDES 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; or

(3) Therefore is a cause of a violation of a wastewater contract for sewage disposal or of receiving water quality standards.

Maximum daily average. Means the maximum concentration of a substance allowed in a discharge as determined from a laboratory test of a daily composite sample. The daily composite sample is the concentration of discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.

May. Is permissive.

mg/L. Milligram per liter.

Monitored User: Commercial and industrial users which are not classified as Significant Industrial Users and do not discharge a significant amount of regulated pollutants on a regular basis.

Monthly Average Limit. Means 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.

NNew source. 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:

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

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

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

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 subsections (2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment. Construction of a new source under this definition has commenced if the owner or operator has;

a. Begun, or caused to begin as part of a continuous onsite construction program;

1. any placement, assembly, or installation of facilities or equipment; or

2. significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

b. 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 definition.

Noncontact cooling water. Water used for cooling which does not come into direct contact with raw materials, intermediate product, waste product, or finished product.

Non-significant Categorical Industrial User **(For facilities discharging to the City of Fort Worth Village Creek Wastewater Treatment Facility)** means an Industrial User that is subject to categorical Pretreatment Standards may, at the discretion of the Director, be permitted as a Non-Significant Categorical Industrial User (NSCIU) based on a finding that the industrial user never discharges categorical wastewater and the following conditions are met:

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

(b) The Industrial User annually submits the certification statement required in Section 12.523-125.1(d)(9)-633(B) [see 40 CFR 403.12(q)], together with any additional information necessary to support the certification statement; and

(c) The Industrial User never discharges any categorical process wastewater into the sanitary sewer.

Normal Wastewater: Wastewater in which the average concentration of Total Suspended Solids is not more than 250mg/L and BOD is not more than 250mg/L, and which is otherwise acceptable to be discharged into a sanitary sewer under the terms of this Chapter.

NPDES (National Pollutant Discharge Elimination System): National Pollutant Discharge Elimination System permit program of the Environmental Protection Agency, and/or the permit pogram of the state agency delegated to act on the Environmental Protection Agency's behalf with an approved pretreatment program (e.g. TPDES or Texas Pollutant Discharge Elimination System.).

North American Industry Classification System (NAICS). Is a system used by the Federal Government for collecting and organizing industry-related statistics. The NAICS codes are updated every five years to stay current with industry developments.

O and M (or O & M). Operation and maintenance.

Other wastes. Decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, and all other substances except sewage and industrial wastes.

Owner or occupant. The person, firm, or public or private corporation, using the lot, parcel of land, building or premises connected to and discharging sewage, industrial wastewater or liquid, into the sanitary sewage system of the city, and who pays, or is legally responsible for the payment of, water rates or charges made against the said lot, parcel of land, building or premises, if connected to the water distribution system of the city, or who would pay or be legally responsible for such payment if so connected.

Over Load: The discharge of BOD/COD, solids or wastewater volume in excess of the POTW's capacity.

Pass through. The discharge of pollutants through the POTW into waters of the United States in quantities or concentrations which are a cause of or significantly contribute to a violation of any requirement of the POTW's TPDES permit.

Permit. Wastewater discharge permit, issued to non-domestic discharges into the sanitary sewerage system of the POTW.

Person. Any individual, business entity, partnership, corporation, governmental agency, political subdivision, or any agent or employee thereof.

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

Polluted Water: Water and/or liquid waste containing any of the following:

a. Free or emulsified grease, and/or oil.

b. Acids or alkalis.

c. Phenols or other substances producing taste or odor in receiving water.

d. Toxic or poisonous substances in suspension, colloidal state or solution.

e. Noxious or otherwise obnoxious or odorous gases, liquids or solids.

f. More than ten (10) mg/L of Total Suspended Solids or BOD, or both.

g. Color; either True or Apparent, exceeding fifty (50) units.

h. More than 500 mg/L of dissolved solids, more than 250mg/L of chlorides or more than 250mg/L sulfates.

i. A pH value of less than 5.5 or greater than 11.0 for discharges to TRA; and lower than 5.0 or higher than 12.0 for discharges to Fort Worth.

j. Any water or wastewater not approved for discharge into Water of the State by the TCEQ.

Pollutant. Dredged spoil, solid, waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

POTW (publicly owned treatment works). A treatment works as defined by section 212 of the Act, which is owned by the City of Kennedale or the control authority ~~or TRA~~. This definition includes any devices and systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any other conveyances which convey wastewater to a treatment plant.

Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the sanitary sewer.

Pretreatment requirements. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.

Pretreatment standard. The term "pretreatment standard," or "standard" means prohibited discharge limits established pursuant to 40 CFR Part 403.5, categorical pretreatment standards, and local limits, including BMPs.

Process wastewater. Means it is the water that comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, waste product, or wastewater.

Public Sewer: Pipe or conduit carrying sanitary or storm wastewater or unpolluted drainage in which owners of abutting properties shall have the use, subject to control by the City.

Public works utility superintendent (or superintendent). Public works utility superintendent of the city, or his authorized representative.

Sanitary sewer. A publicly owned pipe or conduit designed to collect and transport industrial waste and domestic sewage to the POTW.

Sanitary Sewer Service. A sewer conveying wastewater from the premises of a User to the POTW.

Septage. Wastes removed from a septic tank.

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

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

Shall. Is mandatory.

Significant change. An increase or decrease in the volume of wastewater discharged by more than twenty (20) percent from the data submitted in the permit application, or the deletion or addition of any pollutant regulated by the authority or by a categorical standard. Volumes are those measured by the water service meter, a verifiable estimate, or a permanently installed effluent flow meter approved by the authority.

Significant industrial user (SIU). (a) **(For facilities discharging to the City of Fort Worth Village Creek Wastewater Treatment Facility).**

(1) All industrial users subject to categorical pretreatment standards and any other industrial user that:

a. Discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to a POTW (excluding sanitary, noncontact cooling or boiler blowdown wastewater);

b. Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of a POTW; or

c. Is designated as such by the authority on the basis that the industrial user has a reasonable potential for adversely affecting a POTW's operation or for violating any pretreatment standard or requirement.

(2) An Industrial User that is subject to categorical Pretreatment Standards may, at the discretion of the Director, be permitted as a Non-Significant Categorical Industrial User (NSCIU) based on a finding that the industrial user never discharges categorical wastewater (excluding sanitary, non-contact cooling and boiler blow-down wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

a. The Industrial User, prior to City's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;

b. The Industrial User annually submits the certification statement required in Section 12.5-633(B) [see 40 CFR 403.12(q)], together with any additional information necessary to support the certification statement; and

c. The Industrial User never discharges any categorical process wastewater into the sanitary sewer.

(3) Upon a finding that a noncategorical industrial user meeting the criteria for a significant industrial user has no reasonable potential for adversely affecting a POTW's operation or for violating any pretreatment standard or requirement, the authority may at any time on its own initiative or in response to a petition received from a noncategorical industrial user, determine such user is not a significant industrial user.

(b) **(For facilities discharging through the City of Arlington to Trinity River Authority Central Regional Wastewater System).**

All industrial users subject to categorical pretreatment standards and any other industrial user that:

(1) Discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to a POTW (excluding sanitary, noncontact cooling or boiler blowdown wastewater);

(2) Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of a POTW; or

(3) Is designated as such by the authority on the basis that the industrial user has a reasonable potential for adversely affecting a POTW's operation or for violating any pretreatment standard or requirement.

Upon a finding that a noncategorical industrial user meeting the criteria for a significant industrial user has no reasonable potential for adversely affecting a POTW's operation or for violating any pretreatment standard or requirement, the authority may at any time on its own initiative or in response to a petition received from a noncategorical industrial user, determine such user is not a significant industrial user.

Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards of this ordinance. 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, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

Standard Industrial Classification (SIC) Code. The codes which best describe the activities conducted at the facility or establishment. SIC codes are 4 digit numbers used by the Bureau of Census as part of a system to categorize and track the types of business activities conducted in the United States. The first two digits of the code represent the major industry group and the second two digits represent the specific subset of that group. A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

Standard methods. "Standard Methods for the Examination of Water and Wastewater", a publication prepared and published jointly by the American Public Health Association, American Waterworks Association and the Water Pollution Control Federation, as it may be amended from time to time.

State: The State of Texas.

Storm Sewer: All roads with drainage systems, streets, catch basins, curbs, gutters, ditches, watercourses and storm drains, which are designed or used for collecting or conveying storm water.

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

Total suspended solids (TSS). Solids that either float on the surface of, or in suspension in, water, sewage or other liquid and which are removable by laboratory filtering.

Total toxic organics (TTO). The sum of masses or concentration of the toxic organic compounds listed in 40 CFR 122 Appendix D, Table II, excluding pesticides, found in industrial users' discharges at a concentration greater than 0.01 mg/L. Only those parameters reasonably suspected to be present, to be determined by the city, if any, shall be analyzed for with non-categorical industries. With categorical industries, the list of TTOs is specific for every applicable federal category. TTO's will be sampled for as stipulated in the particular category or those parameters reasonably suspected to be present, to be determined by the city, where not stipulated.

Texas Pollutant Discharge Elimination System (TPDES) Permit. Permit issued by the Texas Commission on Environmental Quality under authority delegated pursuant to 33 USC 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis.

Toxic Pollutant: Any substance that is identified as hazardous waste in 40 CFR Part 261 or established pursuant to 40 CFR Part 403.

TRA. Trinity River Authority.

Transporter: A person who owns or operates a vehicle used for the purpose of transporting waste, or a person who authorizes such operation.

Upset. An exceptional incident in which a discharger unintentionally and temporarily is in a state of noncompliance with the standards established in this division, due to factors beyond the reasonable control of the discharger and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof. Any affirmative defenses to upset only apply to federal court actions as per Section 23-126 of this ordinance.

U.S.C. United States Code.

User. Means a person who is a source of an indirect discharge.

Waste: Rejected, unutilized or superfluous substances in liquid, gaseous or solid form resulting from domestic, agricultural, commercial or industrial activities.s

Wastewater:. Liquid and water-carried industrial waste and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Watercourse: A natural or man-made channel in which a flow of water occurs, either continuously or intermittently.

Waters of the State: All streams, lakes, ponds, marshes, watercourses, waterways, wells, 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 contained within, flow through or border upon the State or any portion thereof.
(Ord. No. 308, § 1, 8-11-05)

Sec. 23-122. Purpose and policy; Administration

(a) This division provides for prohibitions on discharges of certain substances into the public sewer system of the city from all sources, domestic, commercial, or industrial. A further purpose of this division is to set forth uniform requirements for industrial dischargers into the authority's wastewater collection and treatment systems, and to enable the authority to protect the general public's health and POTW personnel in conformance with all applicable state and federal laws relating thereto, including the Clean Water Act. Parts of this division are enacted pursuant to regulations established by the U.S. Environmental Protection Agency (EPA) as set forth in 40 CFR Part 403 and all applicable state and federal laws, including the Clean Water Act (33 United States Code 1251 et seq.) and as set forth in 40 CFR Part 403.
(b) All categorical pretreatment standards, lists of toxic pollutants, record-keeping requirements, industrial categories and other standards and categories which have been or which will be promulgated by the EPA shall be incorporated as a part of this division, as will EPA regulations regarding sewage pretreatment established pursuant to the act, and amendment of this division to incorporate such changes shall not be necessary. The authority shall maintain current standards and regulations which shall be available for inspection and copying.
(c) The objectives of this division are:
(1) To prevent the introduction of pollutants into the authority wastewater system which will interfere with the normal operation of the system, including interference with the use or disposal of sludge, or contaminate the resulting sludge;
(2) To prevent the introduction of pollutants into the POTW, and which will pass through the system into receiving waters or the atmosphere or which are otherwise incompatible with the system;
(3) To improve the opportunity to recycle or reclaim wastewater and sludge from the system;
(4) To provide for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW;
(5) To prevent the entrance of pollutants into watercourses within the city and to maintain the quality of water consistent with public health and enjoyment;
(6) To ensure that the quality of wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;
(7) To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public; and
(8) To enable the city to comply with its contracts with the City of Fort Worth and the City of Arlington and to enable the Trinity River Authority and the City of Fort Worth to comply with their NPDES or TPDES permit conditions, sludge use and disposal requirements, and any other federal and state laws to which the POTW is subject.
(d) The regulation of discharges into the authority's wastewater system under this Division shall be accomplished through the issuance of permits, as specified in section 23-125, and by monitoring and inspection of facilities, according to this division.
(e) The director shall have the authority to promulgate such administrative regulations which are consistent with this article and as are from time to time necessary for the enforcement of this division.
(f) For the purpose of promoting consistency of enforcement throughout the city's jurisdiction and service areas, the director shall promulgate an enforcement response plan.

(g) The director and the director's authorized representatives are authorized to administer, implement, and enforce the provisions of this division. Additionally, the director and the director's authorized representatives are authorized to make inspections pursuant to this division and to take enforcement action against violators.

(Ord. No. 308, § 1, 8-11-05)

Sec. 23-123. Prohibited discharges.

(a) *Discharges to storm drains and watercourses.* It shall be unlawful for any person to discharge or cause to be discharged any wastewater into any storm drain or watercourse within the city, except for those persons with approved permits for such discharges.

(b) *General prohibited discharges.*

(1) No person shall discharge or cause to be discharged any storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, and unpolluted wastewater or drainage from downspouts, yard drains, yard fountains and ponds, or lawn sprays into any sanitary sewer.

(2) Water from unpolluted industrial water or cooling water from various equipment shall not be discharged into sanitary sewers if an alternate acceptable means of disposal is available. If an alternate acceptable means of disposal is not available, such water may be discharged into the sanitary sewer with the approval of the city.

(3) No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(c) *Prohibited sewer connections.* It shall be unlawful for any person to deposit or discharge into the sanitary sewer any liquid or solid waste, including trucked or hauled wastes, unless such deposit or discharge has been approved by the authority.

(d) *Specific discharge prohibitions.* No person shall contribute or cause to be discharged directly or indirectly, into any public sanitary sewer any of the following described substances, materials, water or waste:

(1) *Temperature.* Any liquid or vapor having a temperature higher than one hundred fifty degrees (150°) Fahrenheit (65° Centigrade) or a temperature which inhibits or interferes with biological activity in the POTW treatment plant. In no case shall wastewater be introduced which would have a temperature exceeding 40 degrees C (104 degrees F) upon entering the POTW treatment plant.

(2) *Solidifying substance.* Any water or waste which contains wax, grease, oil, petroleum oil, nonbiodegradable cutting oil, products of mineral oil origin, plastic or other substance that will solidify or become discernibly viscous at temperatures between thirty-two degrees (32°) to one hundred fifty degrees (150°) Fahrenheit, thereby contributing to the clogging, plugging or otherwise restricting the flow of wastewater through the collection system;

(3) *Explosive.* Pollutants which create a fire or explosion hazard in the sewer system or POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than one hundred forty degrees (140°) Fahrenheit or sixty degrees (60°) Centigrade using the test methods specified in 40 CFR Part 261.21. This includes flammable or explosive liquids, solids or gases such as gasoline, kerosene, benzene, naphtha, etc., which by reason of their chemical properties or quantity may be sufficient, either alone or by interaction, to cause fire or explosion.

(4) *Obstruction.* Solid or viscous substances in quantities capable of causing obstruction in the flow in sewers or other interference, such as, but not limited to, ashes, cinders, asphalt, concrete, cement, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, whole blood, paunch manure, hair and fleshings, entrails, lime slurry, lime residues, slops, chemical residues, paint residues, or bulk solids;

(5) *Garbage.* Any garbage that has not been properly comminuted or shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half-inch in any dimension;
(6) *Gases.* Any noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance and repair;
(7) *Sludge.* Any substance which may cause the POTW's effluent or treatment residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process as determined pursuant to criteria in this division. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the act or any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Resource Conservation and Recovery Act, the Clean Air Act, the Toxic Substances Control Act, or state standards applicable to the sludge management method being used;
(8) *TPDES.* Any substance which will cause the POTW to violate its TPDES or other disposal system permits, or the receiving stream water quality standards;
(9) *Objectionable color.* Any substance with objectionable color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions;
(10) *Slugload.* Any dump or slugload;
(11) *Hazard to human life.* Any wastewater which causes a hazard to human life or creates a public nuisance;
(12) *Toxicity test.* Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
(13) *Swimming pool.* Swimming pool drainage from private residential pools may not be discharged to the sanitary sewer system. Swimming pool drainage from public and semi-public swimming pools may be discharged to the POTW with the prior consent of the authority. Swimming pool filter backwash may be discharged to the POTW;
(14) *Detergents.* Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
(15) *Medical waste.* Medical wastes, except as specifically authorized by the authority in a wastewater discharge permit;
(16) *Pollutants.* Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
(17) *Interference.* Any pollutant, including oxygen-demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause Interference with the POTW.
(18) *Oils.* Petroleum oil, non-biodegradable cutting oil, or product of mineral oil origin in amounts that will cause interference or pass through.
(19) *Trucked or hauled pollutants.* Trucked or hauled pollutants, except at discharge points designated by the authority in accordance with subsection 23-123(c) of this division.
(20) *pH.* Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0, unless the works is specifically designed to accommodate such discharges.
(21) *Oil and grease.*
a. **(For facilities discharging to the City of Fort Worth Village Creek Wastewater Treatment Facility):**
1. Petroleum oil, non-biodegradable cutting oil, or non polar products of mineral oil origin in concentrations greater than 200 mg/L;
2. Visible free floatable polar oils, fats, or grease or a concentration greater than 250 mg/L in wastewater discharged from industrial or commercial facilities into the POTW; or

3. In no case shall discharges in amounts that cause interference or operational problems with the POTW be allowed.

b. **(For facilities discharging through the City of Arlington and to Trinity River Authority Central Regional Wastewater System):**

Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one-half (1/2) inch in any dimension of fats, oil and grease measured as total oil and grease in excess of two hundred (200) mg/L.

(22) *BTEX.* BTEX concentration greater than 1.0 mg/L.

(23) *Gases.* Hydrogen sulfide, sulfur dioxide or nitrous oxide in excess of 10 parts per million.

(24) *Radioactive.* Radioactive wastes or isotopes with a half-life or concentration exceeding limits established by the authority in compliance with applicable state or federal regulations.

(25) *Toxics.* Toxic pollutants in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, or to pass through the treatment plant and impair aquatic life in receiving water, as expressed by the results of acute or chronic toxicity tests of the POTW effluent.

(26) *Categorical.* Pollutants in excess of the limitations established in an applicable categorical pretreatment standard set forth in Title 40 of the Code of Federal Regulations.

(27) *Explosive.* Wastewaters which emanate vapors causing the atmosphere in the sewer system to exceed twenty (20) percent of the lower explosive limit in the immediate area of the discharge.

(e) *Wastewater limitations.* No person shall contribute or cause to be discharged, directly or indirectly, into any sanitary sewer any wastewater containing or having:

(1) *Acids or alkalis.* Acids or alkalis capable of causing damage to sewage disposal structures or personnel or having a pH value:

a. lower than 5.0 or higher than 12.0 for discharges to Fort Worth; or

b. lower than 5.5 or higher than 11.0 for discharges to TRA.

(2) *Local limits.* Metals in the form of compounds or elements with total concentrations exceeding the following:

TABLE INSET:

Pollutant	Instantaneous Maximum Limit (mg/l) For Discharges to TRA	Instantaneous Maximum Allowable Discharge Limit (mg/L) For Discharges to Fort Worth
Arsenic	0.2	0.25
Cadmium	0.1	0.15
Chromium	2.9	5.0
Copper	2.3	4.0
Lead	0.9	2.9
Mercury	0.0004	0.01
Molybdenum	0.8	No Limit
Nickel	4.6	2.0
Selenium	0.1	No Limit

Silver	0.8	1.0
Zinc	8.0	5.0
TTO	2.13	No Limit

(3) *Cyanide.* Cyanide or cyanogens compounds (expressed as total Cn) in excess of:
a. 1.0 mg/L for discharges to Fort Worth; and
b. 0.5 mg/L for discharges to TRA.
(4) *Best Management Practices.* The director may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits, to help implement Local Limits and other pretreatment standards and the requirements of Section 23.123.
(5) A person commits an offense if with criminal negligence the person processes or stores pollutants, substances, or wastewater prohibited by this section in such a manner that they could be discharged to the POTW.

(f) *Accidental discharge/slug control plan*
The Director shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges at the time of SIU determination or at least by the first year. All the activities associated with slug control evaluation and results are to be kept in the Industrial User file. 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. Alternatively, the director may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:
(1) Description of discharge practices, including non-routine batch discharges;
(2) Description of stored chemicals;
(3) Procedures for immediately notifying the director of any accidental or slug discharge, as required by Section 23-124 of this article; and
(4) Procedures as needed 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.

(g) *Interceptors required.* Where any wastewater may contain sand, grit, debris, undesirable wastes or oil and grease in excess of the allowable limit, appropriate interceptors to remove the aforementioned substances shall be provided and maintained by the person contributing to or causing the discharge, directly or indirectly, at his/her own expense and as required by the authority. Such discharges shall:
(1) Direct all waste streams, which may contain oil, grease, sand, grit, and solids into an approved interceptor or other pretreatment device approved by the authority.
a. All fixtures, equipment, and drain lines located in a facility's food preparation and clean up areas shall be connected to an interceptor.
b. The following types of equipment or fixtures shall be connected to a grease interceptor: pre-rinse or pre-wash sinks or sinks in dishwashing areas; dishwashers; two- or three-compartment sinks; work stoves; garbage disposals; kitchen floor drains; floor sinks; mop sinks; food prep sinks; and hand sinks.
(2) Provide equipment and facilities of a type, design and minimum capacity approved by the authority.
a. Interceptors designed to remove oil and grease shall be designed to hold one hundred (100) percent of the discharger's estimated waste stream for a minimum of twelve (12) minutes.
1. The interceptor shall have a minimum of two (2) compartments and a minimum of two (2) baffles.

2. The interceptor shall be capable of separation and retention of grease and storage of settled solids.
3. The interceptor shall be designed, constructed, and installed for adequate load bearing capacity.
4. A manhole cover shall be installed over each compartment of sufficient size to accommodate cleaning and maintenance.
5. The interceptor shall be installed in a location outside of the building.
6. The interceptor size shall be based on the following calculation or as determined by the authority.

Total fixture waste stream1 × 40% × 12 minutes = interceptor capacity2 .

1

The total fixture estimated waste stream is determined by adding the diameters (in inches) of all drains discharging into the interceptor and multiplying this number by 7.5.

2 In gallons.

(3) Dischargers who discharge extraordinary amounts of abnormal waste may be required to have a higher than minimum capacity interceptor.

(4) Locate the interceptor in a manner that provides ready and easy accessibility for monitoring, cleaning, and inspection.

(5) Maintain the interceptor in an effective operating condition by completely cleaning the interceptor and removing all accumulated wastes semi-annually or at a greater frequency as needed to meet regulated discharge limits.

(6) No chemicals, enzymes, bacteria, or other chemical grease-reducing agents shall be added to an interceptor.

(7) Provide monitoring facilities as detailed in the City of Arlington Water Utilities Standard Specifications for Water and Sewer Construction, or as specified by the authority.

(Ord. No. 308, § 1, 8-11-05; Ord. No. 349, § 1, 9-14-06; Ord. No. 351, § 1, 10-12-06)

Sec. 23-124. Special rules relating to industrial dischargers.

(a) *Compliance with standards.*

(1) *Applicable laws.* All dischargers shall be subject to those federal, state, and local requirements and limitations which are the most stringent. All limitations listed in this division shall apply at the point where the wastewater is discharged to the POTW.

(2) *Dilution.* No discharger shall increase the use of potable or process water in any way for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in this division.

(3) *Mass limitations.* Where deemed appropriate the authority may apply mass limitation expressed in pounds per day of pollutant discharged.

(4) *Categorical pretreatment standards.*

a. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the authority may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

b. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, director shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).

c. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

d. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.25.

(b) *Accidental discharge.*

(1) Each discharger shall provide protection from accidental discharge of prohibited or regulated materials or substances established by this division. Where necessary, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the discharge's cost and

expense. When applicable, detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the authority for review, and shall be approved by the authority before construction of the facility. Review and approval of such plans and operating procedures by the authority shall not relieve the discharger from the responsibility to modify its facility as necessary to meet the requirements of this division.

(2) Dischargers shall notify the authority immediately upon the occurrence of a "slug" or accidental discharge of substances prohibited by this division. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, corrective actions taken, and be signed by the dischargers authorized representative. Within five (5) days following such discharge, the user shall, ~~unless waived the the director~~, submit to the director a detailed written report which specifies: A description and cause of the discharge, including location of the discharge, type, concentration, and volume of water; duration of noncompliance including exact dates and times of noncompliance and, if the noncompliance is continuing, an immediate response to cause the noncompliant discharge to cease; and all steps taken or to be taken to reduce, eliminate, and prevent continuation or recurrence of such an upset, slug load, or accidental discharge, spill, or other conditions of noncompliance. Any discharge discharging slugs of prohibited materials shall be liable for any expense, loss or damage to the wastewater system and the POTW, in addition to the amount of any fines imposed on the authority under state or federal law.

(3) 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 this subsection. Each employer shall instruct all applicable employees, who may cause or discover such a discharge, with respect to emergency notification procedure including the proper telephone number of the authority to be notified.

(c) *Wastewater discharges into private sewer systems.* All dischargers who discharge wastewater into a private sewer system shall comply with this division including section 23-125; provided, however, that flow measurement may be based on metered water consumption. Each discharger shall provide an agreement, signed by the owner of the sewer system, which authorizes the authority's personnel to enter onto the owner's property for purposes of inspection and monitoring of discharger's premises, and for enforcement pursuant to the term of this division.

(d) *Prohibition of bypass.*

(1) Bypass of a discharger's treatment equipment or treatment facility is prohibited and the authority may take enforcement action against the discharger unless:

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

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

c. The discharger submitted advanced, written notice of the need for a bypass.

(2) The discharger shall submit oral notice to the authority of an unanticipated bypass that exceeds categorical standards or other discharge limits within twenty-four (24) hours of the time the discharger becomes aware of the bypass. Written notice shall be provided within five (5) days of the time the discharger becomes aware of the bypass. The written notice shall include a description of the bypass and its causes, duration of the bypass, steps taken to prevent the reoccurrence of the bypass, and must be signed by the authorized representative of the discharger.(3) The authority may approve an anticipated bypass, after considering its adverse effects, if it determines that the bypass will meet all of the conditions of subsection (d)(1) above.

(e) *Notification of hazardous waste discharges.* All dischargers shall notify the authority, the control authority, the EPA's Regional Waste Management Division Director, and the approval authority in writing of any discharge into a wastewater system or POTW of any substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Any notification under this subsection must be submitted in conformance with 40 CFR Part 403.12 (p).

(f) *Pretreatment facilities.*

(a) Users shall provide wastewater treatment as necessary to comply with this article and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Division 2 of this article within the time limitations specified by EPA or TCEQ, the state, or the director, whichever is more stringent.

(b) The user shall provide, operate, and maintain any facilities necessary for compliance at the user's expense.

(c) The director may require a user to submit detailed plans describing such facilities and operating procedures to the director for review. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a disc harge acceptable to the city under the provisions of this article.

(Ord. No. 308, § 1, 8-11-05)

Sec. 23-125.1 Administration by permit. (For facilities discharging to the City of Fort Worth Village Creek Wastewater Treatment Facility)

(a) *Wastewater discharge permit required.*

(1) All nondomestic users which discharge into the POTW shall be grouped according to the following definitions:

a. Group I--Significant industrial users.

b. Group II--Commercial facilities and Non-Significant Industrial Users (NSIU). Those commercial facilities and industrial users which are not included in Group I. Examples include, but are not limited to, automotive service shops, car washes, small food processors, and photographic developing shops.

c. Group III--Classed high strength users. Restaurants or other businesses which can be classed according to any average strength or abnormal strength of their wastewater.

d. Group IV--Wastewater haulers. Septage and chemical toilet waste haulers desiring to discharge into the POTW. Waste must be generated within the city's service area.

e. Group V--Ground water remediation dischargers. Dischargers who are retrieving contaminated underground water, pretreating such water, and then discharging into the POTW.

~~The following classification of user is only applicable for these types of facilities discharging to the City of Fort Worth Village Creek Wastewater Treatment Facility.~~

f. Group VI-- Non-Significant Categorical Industrial User Industrial User (NSCIU). Facility that never discharges categorical wastewater even though categorical process(es) are located on-site.

(2) No Group I, Group IV or Group V or Group VI user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the director.

(3) The Director may require any Group II or Group III user to obtain a wastewater discharge permit. Within thirty (30) days after being notified by the director that a wastewater discharge permit is required, the user shall submit a completed application in compliance with this article. After sixty (60) days from the date a Group II or Group III user is notified by the director that a permit is required, the user shall cease discharge to the POTW without a wastewater discharge permit.

(4) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this article and subjects the wastewater discharge permittee to the sanctions set out in this chapter. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.

(b) *Permits.* All industrial users determined by the city to be a significant industrial user shall submit a wastewater discharge permit application to the authority on a form provided by the authority. For significant industrial users, an application shall be filed with the director at least ninety (90) days prior to the date upon which any discharge will begin or recommence. Non-significant categorical industrial users (NSCIU) and non-significant industrial users (NSIU) shall be required to submit applications at dates specified by the Director. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(1) The application shall contain:
a. All information required by section 23-125(c).
b. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemical used or stored at the facility which are, or could accidentally or intentionally be, discharged into the POTW;
c. Number and type of employee, hours of operation, and proposed or actual hours of operation;
d. Each product produced by type, amount, process or processes, and rate of production;
e. Type and amount of raw materials processed (average and maximum per day);
f. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
g. Time and duration of discharge; and
h. Any other information as may be deemed necessary by the authority to evaluate the wastewater discharge permit application.
All dischargers shall submit an industrial waste questionnaire. The questionnaire will be reviewed by the public works utility superintendent or authorized representative. If deemed necessary, dischargers may also be required to obtain a permit as outlined herein.
(2) No categorical industrial user shall be allowed to discharge until issued a valid permit.
(3) The authority will evaluate the completed applications and data furnished by the discharger and may require additional information. If, after evaluation, the application is deemed satisfactory, then a wastewater discharge permit shall be issued after the evaluation is complete. The wastewater discharge permit shall be subject to the terms and conditions specified herein and to the regulations of the authority.
(4) If the application is denied, the applicant shall be notified in writing of the reasons for such denial. If denial is based on the authority's determination that the applicant cannot meet the wastewater discharge limitations of this division, the authority may specify that the applicant be required to provide pretreatment of the waste before it is deemed acceptable for sewer discharge.
(5) Where additional pretreatment and/or operation and maintenance activities will be required to comply with this division, pursuant to subsection (a)(5) above, the discharger shall provide a declaration of the shortest schedule by which the discharger will provide such additional pretreatment and/or implement added operational and maintenance activities.
a. The schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the discharger to comply with the requirements of this division including, but not limited to dates, relating to hiring an engineer, completing preliminary plans, completing final plans, executing contract(s) for major components, commencing construction, completing construction, and all other acts necessary to achieve compliance with this division.
b. The time increments established between milestone dates shall be the shortest practicable for the completion of the required work. Under no circumstances shall the authority permit a time increment for a single step in the compliance schedule to exceed nine (9) months. The completion date in this schedule shall not be later than the compliance date established for applicable categorical pretreatment standards.
c. Not later than fourteen (14) days following each milestone date in the schedule and the final date for compliance, the discharger shall submit a progress report to the authority, including a statement as to whether or not it complied with the increment of progress represented by that milestone date and, if not,

the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the discharger to return the construction to the approved schedule. In no event shall more than nine (9) months elapse between such progress reports to the authority.

(6) Prior to the approval of a permit, unless exempted by the authority, all dischargers shall provide monitoring facilities to allow inspection, sampling and/or flow measurement of wastewaters before entering the sanitary sewer of the authority. Each monitoring facility shall be located on the discharger's premises; provided, however, where such location would be impractical or cause undue hardship to the discharger, the authority may approve the placement of monitoring facilities in the public street or sidewalk area. All monitoring equipment and facilities shall be maintained in a safe and proper operating condition at the expense of the discharger. Failure to provide proper monitoring facilities shall be grounds for denial of a permit.

(c) *Permit conditions*

Permits are issued to a specific discharger for specific operation and are not assignable to another discharger or transferable to any other location without the prior written approval of the authority.

(1) Wastewater discharge permit transfer may be transferred to a new owner or operator only if the permittee gives advance notice to the authority and the authority approves the wastewater discharge permit transfer. The notice to the authority must include a written certification by the new owner or operator which:

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

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

c. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as the date of facility transfer.

(2) Wastewater discharge permit requirements:

a. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;

b. A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with subsection 23-125(b)(1) of this division, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

c. Effluent limits and Best Management Practices based on applicable general pretreatment standards as set forth in CFR part 403, categorical pretreatment standards, local limits, and state and local law;

d. Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include and identification of pollutants (or Best Management Practices) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and

e. Permits shall contain a statement of the civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by federal, state, and local law.

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

c. 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;

d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW, the unit charge or schedule of user charges and fees for the management of the wastewater discharge to the POTW;
e. The unit charge of schedule of user charges and fees for management of the wastewater discharge to the POTW;
f. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
g. A statement that compliance with the wastewater discharge 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 wastewater discharge permit;
h. Other conditions as deemed appropriate by the authority to ensure compliance with this division, and state and federal laws, rules, and regulations; and
i. Limits on the maximum wastewater constituents and characteristics and location of approved discharge points.
j. Requirements to control Slug Discharge, if determined by the city to be necessary.

(d) *Reporting requirements for dischargers.*
(1) *Baseline report.*
Within one hundred eighty (180) days following the effective date for new or revised categorical pretreatment standards, or at least ninety (90) days prior to commencement of the introduction of wastewater into the POTW by a new discharger, any discharger subject to a categorical pretreatment standard shall submit to the authority a report (in a form provided by the authority), indicating the nature and concentration of all prohibited or regulated substances contained in its discharge, and the average and maximum daily flow in gallons. The report shall state whether the applicable categorical pretreatment standards are being met on a consistent basis and, if not, what additional O & M or pretreatment is necessary to bring the discharger into compliance with the applicable categorical pretreatment standards. The report shall also contain:
a. *Identifying information.* The name and address of the facility, including the name of the operator and owner.
b. *Environmental permits.* A list of any environmental control permits held by or for the facility.
c. *Description of operations.* A brief description of nature, average rate of production, standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
d. *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
e. *Measurement of pollutants.*
i. The categorical pretreatment standards applicable to each regulated process.
ii. The result of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the authority, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 23-125 herein. In cases where the standard requires compliance with a best management practice or pollution prevention alternative, the user shall submit documentation as required by the City or the applicable standards to determine compliance with the standard.
iii. Sampling must be performed in accordance with procedures set out in subsection 23-125(c)(4).
iv. The user shall take a minimum of one representative sample to compile the data necessary to comply with the requirements of this paragraph. However, the City 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. Historical data than can represent the current discharge only can be accepted as a baseline report.
v. 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. *Certification.* A statement, reviewed by the user's authorized representative 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.
g. *Compliance schedule.* If additional pretreatment, best management practices and/or O & M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O & M must be provided. 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 division must meet the requirements set out in section 23-125.
h. *Signature and certification.* All baseline monitoring reports shall be signed by an authorized representative and certified by a qualified professional as stated in 40 CFR Part 403.12(b)(6).

(2) *Ninety-day compliance report.* Within ninety (90) days following the date for final compliance by the discharger with applicable categorical pretreatment standards or ninety (90) days following commencement of the introduction of wastewater into the POTW by a new discharger, any discharger subject to categorical pretreatment standards shall submit to the authority a report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge, and the average and maximum daily flow in gallons. The report shall state whether the applicable categorical pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O & M or pretreatment is necessary to bring the discharger into compliance with the applicable categorical pretreatment standards or requirements, including best management practices. This report shall be signed by an authorized representative of the discharger.

(3) *Periodic compliance reports*
a. Any discharger subject to a categorical pretreatment standard made a part of this division shall submit to the authority a report indicating the nature and concentration of prohibited or regulated substances in the effluent which are limited by the categorical pretreatment standards hereof, including best management practices. Reports are required after the compliance date of such a pretreatment standard, or in the case of a new discharger, after commencement of the discharge, and are to be submitted at least once every six (6) months (on dates specified by the authority).
b. In addition, where applicable, this report shall include a record of all measured or estimated average and maximum daily flows. Flows shall be reported on the basis of actual measurement, provided however, where cost or feasibility considerations justify, the authority may accept reports of average and maximum flows estimated by verifiable techniques. The authority, taking into consideration extenuating factors, may authorize the submission of said reports on months other than those specified above.
c. In cases where the Pretreatment Standard requires compliance with Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by City or the Pretreatment Standard necessary to determine the compliance status of the User, and contributing information as is determined necessary to account for water usage, materials recovery, or disposal practices.
d. ~~If the Director has determined that~~ a All non-significant categorical industrial users (NSCIU) ~~or a non-significant industrial user (NSIU) needs a permit, user~~ shall submit a report annually in the month specified by the Director. The report shall be completed according to the City's current reporting requirements, including the submittal of any applicable certification statements and data obtained

through appropriate sampling and analysis performed during the period covered by the report which data are representative of conditions occurring during the reporting period.
e. If the Director has determined that a non-significant industrial user (NSIU) needs a permit, then the NSIU shall submit a report annually in the month specified by the Director. The report shall be completed according to the City's current reporting requirements, including the submittal of any applicable certification statements.
f. ~~e~~. All periodic compliance reports shall be signed and certified in accordance with section 86-90(c)(9) of this article.
g. ~~f.~~ All wastewater samples shall 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 equipment in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
h. ~~g.~~ Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.
(4) *Analysis and sampling procedures.*
a. All analyses shall be performed in accordance with procedures contained in 40 CFR Part 136 and amendments thereto or with any other test procedures approved by the Administrator of the EPA. Sampling shall be performed in accordance with the techniques approved by EPA. Where 40 CFR Part 136 does not include sampling or analytical techniques for the pollutants in question, or where EPA determines that the Part 136 techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by EPA.
b. Sample collection.
1. Except as indicated in subsection (c)(4)(~~B)(ii~~) b.2. below, the user must collect wastewater samples using 24-hour flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the authority may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. 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 City, as appropriate. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
2. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
3. For sampling required in support of baseline monitoring and 90-day compliance reports required in [40 CFR 403.12(b) and (d)], 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 City Superintendent may authorize a lower minimum.
4. For the reports required by (40 CFR 403.12(e) and 403.12(h)), 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.
(5) *Reporting additional monitoring.* If an industrial user subject to the reporting requirements of this section monitors any pollutant more frequently than required by the authority, using the procedures prescribed in subsections (c)(4) and b.2. herein, the results of this monitoring along with chain-of-custody forms shall be included in the report.

(6) *Significant industrial user reporting.* Significant industrial users shall submit to the authority at least once every six (6) months (on dates as specified by the authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the authority. These reports shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques described in subsection (c)(4) herein. This sampling and analysis may be performed by the authority in lieu of the significant industrial user.

(7) *Notification of changed discharge.* Dischargers shall give prior written notification to the authority and City of Fort Worth and TRA of any potential and actual significant changes in the volume or character of pollutants in the discharge.

a. The notification to the authority shall be received at least thirty (30) days prior to change.

b. The authority may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application.

c. The authority may issue a wastewater discharge permit or modify an existing wastewater discharge permit in response to changed conditions or anticipated changed conditions.

d. For purposes of this requirement, significant changes include, but are not limited to, flow increases or decreases of twenty (20) percent or greater, the discharge of any previously unreported pollutants, and the deletion of any pollutant regulated by this division or a permit issued pursuant to this division.

e. Significant Industrial users that discharge wastewater to treatment plants operated by the City of Fort Worth shall provide prior written notification to the City and City of Fort Worth of changes to its wastewater discharges and any changes at its facility that affect the potential for a Slug Discharge.

(8) *Authority monitoring.* Sampling and analysis for the reports required by subsections (c)(1), (2), (3) and (6) above may be performed by the authority in lieu of the discharger. If all information required for the report, including flow data, is collected by the authority, the discharger will not be required to submit the report.

(9) *Signatory requirements.*

a. All applications and compliance reports submitted to the authority must contain the following certification statement and be signed by the authorized representative:

"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 and for not reporting known violations, including possibility of fine and imprisonment."

b. Annual Certification for Non-Significant Categorical Industrial Users—A facility determined to be a Non-Significant Categorical Industrial User by the director pursuant to Section 12.5 103 & 631 (a) (623-121 & 23-125.1(a)); must annually submit the following certification statement signed in accordance with the signatory requirements in **40 CFR 403.120(l)]**. 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 [month, day, year] to [months, days, year].
>
> (a) The facility described as [facility name] met the definition of a Non-Significant Categorical Industrial User as described in Section 23-125.1 (a) (1).
>
> (b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and
>
> (c) The facility never discharged categorical process wastewater on any given day during this reporting period.
>
> This compliance certification is based on the following information: ________________"

(10) *Wastewater analysis.* When requested by the authority, a user must submit information on the nature and characteristics of its wastewater within the time frame requested by the authority. The

authority is authorized to prepare a form for this purpose and may periodically require users to update this information.

(e) *Inspection and flow measurement.*

(1) *Inspection.*

a. At least once a year, the director shall inspect and sample each significant industrial user (SIU), NSCIU and NSIU to determine compliance with the requirements of this article. However, the director may inspect and sample each SIU as frequently as needed during the pretreatment year. The director shall evaluate whether each SIU needs a plan to control slug discharges at the time of SIU determination, or at least by the first year. The authority, control authority, TCEQ or EPA may inspect the facilities of any discharger to determine compliance with the requirements of this division. The discharger shall allow the authority, control authority, TCEQ or EPA or their representatives to enter upon the premises of the discharger at all reasonable hours for the purposes of inspection, sampling, or examination of records. All reports and records related to the provisions of this division shall be made available for copying and inspection by the authority, control authority, TCEQ or EPA, including documentation associated with Best Management Practices. The authority, control authority, TCEQ or EPA shall have the right to set upon the discharger's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and metering or measuring operations. User shall provide ample room in or near the monitoring facility to allow accurate sampling and preparation of samples and analysis and whether constructed on public or private property, the monitoring facilities should be provided in accordance with the City's requirements and all applicable local construction standards and specifications, and such facilities shall be constructed and maintained in such manner so as to enable the City to perform independent monitoring activities. The inspectors, agents or representatives of the authority, control authority, TCEQ or EPA charged with the enforcement of this division shall be deemed to be performing a governmental function for the benefit and health and welfare of the general public and neither the authority, control authority, TCEQ, EPA, nor any individual inspector, agent or representative these agencies shall be held liable for any loss or damage, whether real or asserted, caused or alleged to have been caused as a result of the performance of such governmental function. The failure or refusal of such owner or discharger to comply with this provision shall be grounds for the disconnection of water or sewer service to the facility.

b. Facilities regulated under this chapter are subject to the authority of the following agencies concerning access to information and right of entry onto property for purposes of implementing and enforcing federal and state pretreatment programs and other applicable law: (i) the EPA under section 308 of the Federal Clean Water Act (33 U.S.C. § 3318), as amended; and (ii) the Texas Commission on Environmental Quality (TCEQ), Water Code §§ 26.014 and 26.015, as amended, and V.T.C.A., Health and Safety Code §§ 361.032 and 361.037, as amended, provisions of the Texas Water Code and Texas Health Safety Code. If entry is denied or if a person in control cannot be located, the director shall have every recourse provided by law to secure entry. Such recourse shall include the right to obtain a search warrant under the guidelines of the Texas Code of Criminal Procedure; and for the purposes of same, any person with enforcement authority under this chapter is hereby declared to be a "health officer."

c. The industrial waste discharged or deposited into the sanitary sewers shall be subject to periodic inspection and sampling as often as may be deemed necessary by the authority, control authority, TCEQ or EPA. Samples shall be collected in such manner as to be representative of the character and concentration the waste under operational conditions. The laboratory methods used in the examination of said waste shall be those set forth in 40 CFR Part 136. The determination of the character and concentration of industrial waste shall be made at such times and on such schedules as may be established by the authority, control authority, TCEQ or EPA. Should a discharger desire a determination of the quality of such industrial waste be made at some time other than that scheduled by the authority, control authority, TCEQ or EPA, such special determination may be made by the authority, control authority, TCEQ or EPA at the expense of the owner or discharger.

d. The authority, control authority, TCEQ or EPA shall conduct surveillance activities in order to identify, independent of information supplied by industrial users, occasional and continuing noncompliance with pretreatment standards. The authority or control authority shall inspect and sample the effluent from each significant industrial user at least once a year. The result of such activities shall be available to the approval authority upon request.

(2) *NOV/repeat sampling and reporting.* If sampling performed by an industrial user indicates a violation, the user shall notify the control authority within twenty-four (24) hours of becoming aware of the violation. Within ten (10) days submit to the director a report which addresses: The time, date, location, processes, and operations associated with the violation, and the personnel assigned responsibility and/or present during the violation; the cause or probable cause of the noncompliance; and the actions taken and implemented to meet permit conditions. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within thirty (30) days after becoming aware of the violation, except the industrial user is not required to resample if:

a. The control authority performs sampling at the industrial user at a frequency of at least once per month; or

b. The control authority performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

(3) *Measurement of flow.* The volume of flow used in computing sewage charges shall be based upon metered water consumption or discharge as shown in the records of meter readings maintained by the city's water department.

Where it can be shown to the satisfaction of the director that a substantial portion of the metered water does not enter the sanitary sewer, the director may require or permit the installation of additional approved meters at the owner's expense, to measure the quantity of water actually entering the sewer system. If approved by the director, the measured quantity of water actually entering the sewer system will be used to determine the sewer service charge.

Any discharger who procures all or part of its water supply from sources other than the city's water department, all or part of which is subsequently discharged into the sanitary sewer, shall install and maintain at its expense an effluent meter or flow measuring device approved by the director for the purpose of determining the proper volume of flow to be used in computing sewer service charges. Such meters or measuring devices shall be read monthly.

If the director determines that it is not practicable to measure the quantity or quality of waste by the aforesaid meters or monitoring devices, the quantity or quality of the waste shall be determined in any manner or method the director may find practicable in order to arrive at the percentage of water entering the sanitary sewage system of the authority and/or the quality of the sewage to be used to determine the sewer service charge.

(f) *Permit modifications.*

(1) The authority reserves the right to amend any permit issued hereunder in order to assure compliance by the authority with applicable laws and regulations. The authority may amend any permit for good cause including, but not limited to the following:

a. To incorporate any new or revised federal, state, or local pretreatment standards or requirements.

b. Material or substantial alterations or additions to the discharger's operation processes, or discharge volume or character which were not considered in drafting the effective permit.

c. A change in any condition in either the industrial user or the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.

d. Information indicating that the permitted discharge poses a threat to the authority's or POTW's collection and treatment systems, authority or POTW personnel or the receiving waters.

e. Violation of any terms or conditions of the permit.

f. Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting.
g. To correct typographical or other errors in the permit.
h. To reflect transfer of the facility ownership and/or operation to a new owner/operator.
i. Upon request of the permittee, provided such request does not create a violation of any applicable requirements, standards, laws, or rules and regulations.
j. To incorporate, revise, or revoke new or existing best management practices.

(2) All categorical pretreatment standards promulgated and adopted by the EPA after the effective date of this division shall automatically become a part of this division. Where a discharger, subject to a categorical pretreatment standard, has not previously submitted an application for a permit as required by subsection 23-125(a)(2) above, the discharger shall apply for a permit from the authority within one hundred eighty (180) days after the promulgation of the applicable categorical pretreatment standard by the EPA. In addition, the discharger with an existing permit shall submit to the authority within one hundred eighty (180) days after promulgation of an applicable categorical pretreatment standard, the information required by subsection 23-125(c)(1) above. The discharger shall be informed of any proposed changes in its permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
(g) *Confidential information.*
(1) All information and data submitted by a discharger to the authority or POTW may be submitted to any state or federal agency governing the POTW. Such information shall be considered subject to public disclosure, provided, however, that the discharger may request that information not be subject to public disclosure, in accordance with 40 CFR Part 2 as follows:
a. A discharger may assert a business confidentiality claim covering part or all of the information in a manner described below, and that information covered by such a claim will be disclosed only by means of the procedures set forth below.
b. If no claim of business confidentiality is asserted, all information will be subject to public disclosure without further notice to the discharger.
(2) Asserting business confidentiality claim. A discharger which is submitting information to the authority may assert a business confidentiality claim covering the information by placing on or attaching to the information, at the time it is submitted to the authority, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential portions of otherwise nonconfidential documents should be clearly identified by the discharger, and may be submitted separately to facilitate identification and handling by the authority. If the discharger desires confidential treatment only until a certain date or until the occurrence of a certain event, the notice should so state.
(3) Nothing in this division shall prevent the disclosure of information and data regarding the nature and content of a discharger's effluent, and the frequency of discharge, or a standard or limitation to be met by the discharger, and this information shall be available to the public with no restrictions. Effluent data which cannot be held as confidential is as defined in 40 CFR 2.302.
(4) The provisions of this subsection shall be subject to any public disclosure requirements which may exist under the Texas Public Information Act, V.T.C.A., Government Code Ch. 552, as amended.
(h) *Duty to reapply.* A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit re-issuance by submitting a complete permit application, in accordance with subsection 23-125(a)(2) of this division prior to the expiration of the user's existing wastewater discharge permit. An expired permit will continue to be effective and enforceable until the permit is reissued. The user will not be subject to penalties if:
(1) The user has submitted a complete permit application at least sixty (60) days prior to the expiration date of the user's existing permit; and
(2) The failure to reissue prior to expiration of the previous permit is not due to any act or failure to act on the part of the user.

(Ord. No. 308, § 1, 8-11-05)

Sec. 23-125.2 Administration by permit. (For facilities discharging through City of Arlington and to the Trinity River Authority Central Regional Wastewater System).

(a) *Permits.*

(1) All industrial users determined by the city to be a significant industrial user shall submit a wastewater discharge permit application to the authority on a form provided by the authority. The application shall contain:

a. All information required by section 23-125.2(c).

b. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemical used or stored at the facility which are, or could accidentally or intentionally be, discharged into the POTW;

c. Number and type of employee, hours of operation, and proposed or actual hours of operation;

d. Each product produced by type, amount, process or processes, and rate of production;

e. Type and amount of raw materials processed (average and maximum per day);

f. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

g. Time and duration of discharge; and

h. Any other information as may be deemed necessary by the authority to evaluate the wastewater discharge permit application.

All dischargers shall submit an industrial waste questionnaire. The questionnaire will be reviewed by the public works utility superintendent or authorized representative. If deemed necessary, dischargers may also be required to obtain a permit as outlined herein.

(2) No categorical industrial user shall be allowed to discharge until issued a valid permit.

(3) The authority will evaluate the completed applications and data furnished by the discharger and may require additional information. If, after evaluation, the application is deemed satisfactory, then a wastewater discharge permit shall be issued after the evaluation is complete. The wastewater discharge permit shall be subject to the terms and conditions specified herein and to the regulations of the authority.

(4) If the application is denied, the applicant shall be notified in writing of the reasons for such denial. If denial is based on the authority's determination that the applicant cannot meet the wastewater discharge limitations of this division, the authority may specify that the applicant be required to provide pretreatment of the waste before it is deemed acceptable for sewer discharge.

(5) Where additional pretreatment and/or operation and maintenance activities will be required to comply with this division, pursuant to subsection (a)(5) above, the discharger shall provide a declaration of the shortest schedule by which the discharger will provide such additional pretreatment and/or implement added operational and maintenance activities.

a. The schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the discharger to comply with the requirements of this division including, but not limited to dates, relating to hiring an engineer, completing preliminary plans, completing final plans, executing contract(s) for major components, commencing construction, completing construction, and all other acts necessary to achieve compliance with this division.

b. The time increments established between milestone dates shall be the shortest practicable for the completion of the required work. Under no circumstances shall the authority permit a time increment for a single step in the compliance schedule to exceed nine (9) months. The completion date in this schedule shall not be later than the compliance date established for applicable categorical pretreatment standards.

c. Not later than fourteen (14) days following each milestone date in the schedule and the final date for compliance, the discharger shall submit a progress report to the authority, including a statement as to whether or not it complied with the increment of progress represented by that milestone date and, if not,

the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the discharger to return the construction to the approved schedule. In no event shall more than nine (9) months elapse between such progress reports to the authority.
(6) Prior to the approval of a permit, unless exempted by the authority, all dischargers shall provide monitoring facilities to allow inspection, sampling and/or flow measurement of wastewaters before entering the sanitary sewer of the authority. Each monitoring facility shall be located on the discharger's premises; provided, however, where such location would be impractical or cause undue hardship to the discharger, the authority may approve the placement of monitoring facilities in the public street or sidewalk area. All monitoring equipment and facilities shall be maintained in a safe and proper operating condition at the expense of the discharger. Failure to provide proper monitoring facilities shall be grounds for denial of a permit.

(b) *Permit conditions***.** Permits are issued to a specific discharger for specific operation and are not assignable to another discharger or transferable to any other location without the prior written approval of the authority.
(1) Wastewater discharge permit transfer may be transferred to a new owner or operator only if the permittee gives advance notice to the authority and the authority approves the wastewater discharge permit transfer. The notice to the authority must include a written certification by the new owner or operator which:
a. States that the new owner and/or operator has no immediate intent to change the facility's operations and process;
b. Identifies the specific date on which the transfer is to occur; and
c. Acknowledges full responsibility for complying with the existing wastewater discharge permit.
Failure to provide advance notice of a transfer renders the wastewater discharge permit void as the date of facility transfer.
(2) Wastewater discharge permit requirements:
a. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;
b. A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with subsection 23-125(b)(1) of this division, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
c. Effluent limits based on applicable general pretreatment standards as set forth in CFR part 403, categorical pretreatment standards, local limits, and state and local law;
d. Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include and identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and
e. Permits shall contain a statement of the civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by federal, state, and local law.
(3) Wastewater discharge 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. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
c. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW, the unit charge or schedule of user charges and fees for the management of the wastewater discharge to the POTW;

e. The unit charge of schedule of user charges and fees for management of the wastewater discharge to the POTW;
f. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
g. A statement that compliance with the wastewater discharge 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 wastewater discharge permit;
h. Other conditions as deemed appropriate by the authority to ensure compliance with this division, and state and federal laws, rules, and regulations; and
i. Limits on the maximum wastewater constituents and characteristics and location of approved discharge points.

(c) *Reporting requirements for dischargers.*
(1) *Baseline report.* Within one hundred eighty (180) days following the effective date for new or revised categorical pretreatment standards, or at least ninety (90) days prior to commencement of the introduction of wastewater into the POTW by a new discharger, any discharger subject to a categorical pretreatment standard shall submit to the authority a report (in a form provided by the authority), indicating the nature and concentration of all prohibited or regulated substances contained in its discharge, and the average and maximum daily flow in gallons. The report shall state whether the applicable categorical pretreatment standards are being met on a consistent basis and, if not, what additional O & M or pretreatment is necessary to bring the discharger into compliance with the applicable categorical pretreatment standards. The report shall also contain:
a. *Identifying information.* The name and address of the facility, including the name of the operator and owner.
b. *Environmental permits.* A list of any environmental control permits held by or for the facility.
c. *Description of operations.* A brief description of nature, average rate of production, standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
d. *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
e. *Measurement of pollutants.*
1. The categorical pretreatment standards applicable to each regulated process.
2. The result of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the authority, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 23-125 herein.
3. Sampling must be performed in accordance with procedures set out in subsection 23-125(c)(4).
f. *Certification.* A statement, reviewed by the user's authorized representative 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.
g. *Compliance schedule.* If additional pretreatment and/or O & M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O & M. 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 division must meet the requirements set out in section 23-125.
h. *Signature and certification.* All baseline monitoring reports shall be signed by an authorized representative and certified by a qualified professional as stated in 40 CFR Part 403.12(b)(6).

(2) *Ninety-day compliance report.* Within ninety (90) days following the date for final compliance by the discharger with applicable categorical pretreatment standards or ninety (90) days following commencement of the introduction of wastewater into the POTW by a new discharger, any discharger subject to categorical pretreatment standards shall submit to the authority a report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge, and the average and maximum daily flow in gallons. The report shall state whether the applicable categorical pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O & M or pretreatment is necessary to bring the discharger into compliance with the applicable categorical pretreatment standards or requirements. This report shall be signed by an authorized representative of the discharger.

(3) *Periodic compliance reports.*
a. Any discharger subject to a categorical pretreatment standard made a part of this division shall submit to the authority a report indicating the nature and concentration of prohibited or regulated substances in the effluent which are limited by the categorical pretreatment standards hereof. Reports are required after the compliance date of such a pretreatment standard, or in the case of a new discharger, after commencement of the discharge, and are to be submitted at least once every six (6) months (on dates specified by the authority).
b. In addition, where applicable, this report shall include a record of all measured or estimated average and maximum daily flows. Flows shall be reported on the basis of actual measurement, provided however, where cost or feasibility considerations justify, the authority may accept reports of average and maximum flows estimated by verifiable techniques. The authority, taking into consideration extenuating factors, may authorize the submission of said reports on months other than those specified above.

(4) *Analysis and sampling procedures.*
a. All analyses shall be performed in accordance with procedures contained in 40 CFR Part 136 and amendments thereto or with any other test procedures approved by the Administrator of the EPA. Sampling shall be performed in accordance with the techniques approved by EPA. Where 40 CFR Part 136 does not include sampling or analytical techniques for the pollutants in question, or where EPA determines that the Part 136 techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by EPA.
b. Sample collection.
1. Except as indicated in subsection (c)(4)(B)(ii), the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the authority may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
2. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
(5) *Reporting additional monitoring.* If an industrial user subject to the reporting requirements of this section monitors any pollutant more frequently than required by the authority, using the procedures prescribed in subsection (c)(4) herein, the results of this monitoring shall be included in the report.
(6) *Significant industrial user reporting.* Significant industrial users shall submit to the authority at least once every six (6) months (on dates as specified by the authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the authority. These reports shall be based on sampling and analysis performed in the period covered by the report, and performed in

accordance with the techniques described in subsection (c)(4) herein. This sampling and analysis may be performed by the authority in lieu of the significant industrial user.

(7) *Notification of changed discharge.* Dischargers shall give prior written notification to the authority of any significant change in the volume or character of pollutants in the discharge.

a. The notification to the authority shall be received at least thirty (30) days prior to change.

b. The authority may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application.

c. The authority may issue a wastewater discharge permit or modify an existing wastewater discharge permit in response to changed conditions or anticipated changed conditions.

d. For purposes of this requirement, significant changes include, but are not limited to, flow increases or decreases of twenty (20) percent or greater, the discharge of any previously unreported pollutants, and the deletion of any pollutant regulated by this division or a permit issued pursuant to this division.

e. Significant Industrial users that discharge wastewater to treatment plants operated by the Trinity River Authority (TRA) shall provide prior written notification to the City and the TRA of changes to its wastewater discharges and any changes at its facility that affect the potential for a Slug Discharge.

(8) *Authority monitoring.* Sampling and analysis for the reports required by subsections (c)(1), (2), (3) and (6) above may be performed by the authority in lieu of the discharger. If all information required for the report, including flow data, is collected by the authority, the discharger will not be required to submit the report.

(9) *Signatory requirements.* All applications and compliance reports submitted to the authority must contain the following certification statement and be signed by the authorized representative:

"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 and for not reporting known violations, including possibility of fine and imprisonment."

(10) *Wastewater analysis.* When requested by the authority, a user must submit information on the nature and characteristics of its wastewater within the time frame requested by the authority. The authority is authorized to prepare a form for this purpose and may periodically require users to update this information.

(d) *Inspection and flow measurement.*

(1) *Inspection.*

a. The authority, control authority, TCEQ or EPA may inspect the facilities of any discharger to determine compliance with the requirements of this division. The discharger shall allow the authority, control authority, TCEQ or EPA or their representatives to enter upon the premises of the discharger at all reasonable hours for the purposes of inspection, sampling, or examination of records. All reports and records related to the provisions of this division shall be made available for copying and inspection by the authority, control authority, TCEQ or EPA. The authority, control authority, TCEQ or EPA shall have the right to set upon the discharger's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and metering or measuring operations. The inspectors, agents or representatives of the authority, control authority, TCEQ or EPA charged with the enforcement of this division shall be deemed to be performing a governmental function for the benefit and health and welfare of the general public and neither the authority, control authority, TCEQ, EPA, nor any individual inspector, agent or representative these agencies shall be held liable for any loss or damage, whether real or asserted, caused or alleged to have been caused as a result of the performance of such governmental function. The failure or refusal of such owner or discharger to comply with this provision shall be grounds for the disconnection of water or sewer service to the facility.

b. Facilities regulated under this chapter are subject to the authority of the following agencies concerning access to information and right of entry onto property for purposes of implementing and

enforcing federal and state pretreatment programs and other applicable law: (i) the EPA under section 308 of the Federal Clean Water Act (33 U.S.C. § 3318), as amended; and (ii) the Texas Commission on Environmental Quality (TCEQ) under V.T.C.A., Water Code §§ 26.014 and 26.015, as amended, and V.T.C.A., Health and Safety Code §§ 361.032 and 361.037, as amended, provisions of the Texas Water Code and Texas Health Safety Code. (d)
c. The industrial waste discharged or deposited into the sanitary sewers shall be subject to periodic inspection and sampling as often as may be deemed necessary by the authority, control authority, TCEQ or EPA. Samples shall be collected in such manner as to be representative of the character and concentration the waste under operational conditions. The laboratory methods used in the examination of said waste shall be those set forth in 40 CFR Part 136. The determination of the character and concentration of industrial waste shall be made at such times and on such schedules as may be established by the authority, control authority, TCEQ or EPA. Should a discharger desire a determination of the quality of such industrial waste be made at some time other than that scheduled by the authority, control authority, TCEQ or EPA, such special determination may be made by the authority, control authority, TCEQ or EPA at the expense of the owner or discharger.
d. The authority, control authority, TCEQ or EPA shall conduct surveillance activities in order to identify, independent of information supplied by industrial users, occasional and continuing noncompliance with pretreatment standards. The authority or control authority shall inspect and sample the effluent from each significant industrial user at least once a year. The result of such activities shall be available to the approval authority upon request.
(2) *NOV/repeat sampling and reporting.* If sampling performed by an industrial user indicates a violation, the user shall notify the control authority 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 control authority within thirty (30) days after becoming aware of the violation, except the industrial user is not required to resample if:
a. The control authority performs sampling at the industrial user at a frequency of at least once per month; or
b. The control authority performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.
(3) *Measurement of flow.* The volume of flow used in computing sewage charges shall be based upon metered water consumption or discharge as shown in the records of meter readings maintained by the city's water department.
Where it can be shown to the satisfaction of the director that a substantial portion of the metered water does not enter the sanitary sewer, the director may require or permit the installation of additional approved meters at the owner's expense, to measure the quantity of water actually entering the sewer system. If approved by the director, the measured quantity of water actually entering the sewer system will be used to determine the sewer service charge.
Any discharger who procures all or part of its water supply from sources other than the city's water department, all or part of which is subsequently discharged into the sanitary sewer, shall install and maintain at its expense an effluent meter or flow measuring device approved by the director for the purpose of determining the proper volume of flow to be used in computing sewer service charges. Such meters or measuring devices shall be read monthly.
If the director determines that it is not practicable to measure the quantity or quality of waste by the aforesaid meters or monitoring devices, the quantity or quality of the waste shall be determined in any manner or method the director may find practicable in order to arrive at the percentage of water entering the sanitary sewage system of the authority and/or the quality of the sewage to be used to determine the sewer service charge.

(e) *Permit modifications.*

(1) The authority reserves the right to amend any permit issued hereunder in order to assure compliance by the authority with applicable laws and regulations. The authority may amend any permit for good cause including, but not limited to the following:
a. To incorporate any new or revised federal, state, or local pretreatment standards or requirements.
b. Material or substantial alterations or additions to the discharger's operation processes, or discharge volume or character which were not considered in drafting the effective permit.
c. A change in any condition in either the industrial user or the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.
d. Information indicating that the permitted discharge poses a threat to the authority's or POTW's collection and treatment systems, authority or POTW personnel or the receiving waters.
e. Violation of any terms or conditions of the permit.
f. Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting.
g. To correct typographical or other errors in the permit.
h. To reflect transfer of the facility ownership and/or operation to a new owner/operator.
i. Upon request of the permittee, provided such request does not create a violation of any applicable requirements, standards, laws, or rules and regulations.

(2) All categorical pretreatment standards promulgated and adopted by the EPA after the effective date of this division shall automatically become a part of this division. Where a discharger, subject to a categorical pretreatment standard, has not previously submitted an application for a permit as required by subsection 23-125(a)(2) above, the discharger shall apply for a permit from the authority within one hundred eighty (180) days after the promulgation of the applicable categorical pretreatment standard by the EPA. In addition, the discharger with an existing permit shall submit to the authority within one hundred eighty (180) days after promulgation of an applicable categorical pretreatment standard, the information required by subsection 23-125(c)(1) above. The discharger shall be informed of any proposed changes in its permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
(f) *Confidential information.*
(1) All information and data submitted by a discharger to the authority or POTW may be submitted to any state or federal agency governing the POTW. Such information shall be considered subject to public disclosure, provided, however, that the discharger may request that information not be subject to public disclosure, in accordance with 40 CFR Part 2 as follows:
a. A discharger may assert a business confidentiality claim covering part or all of the information in a manner described below, and that information covered by such a claim will be disclosed only by means of the procedures set forth below.
b. If no claim of business confidentiality is asserted, all information will be subject to public disclosure without further notice to the discharger.
(2) Asserting business confidentiality claim. A discharger which is submitting information to the authority may assert a business confidentiality claim covering the information by placing on or attaching to the information, at the time it is submitted to the authority, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential portions of otherwise nonconfidential documents should be clearly identified by the discharger, and may be submitted separately to facilitate identification and handling by the authority. If the discharger desires confidential treatment only until a certain date or until the occurrence of a certain event, the notice should so state.
(3) Nothing in this division shall prevent the disclosure of information and data regarding the nature and content of a discharger's effluent, and the frequency of discharge, or a standard or limitation to be met by the discharger, and this information shall be available to the public with no restrictions. Effluent data which cannot be held as confidential is as defined in 40 CFR 2.302.

(4) The provisions of this subsection shall be subject to any public disclosure requirements which may exist under the Texas Public Information Act, V.T.C.A., Government Code Ch. 552, as amended.

(g) *Duty to reapply.* A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit re-issuance by submitting a complete permit application, in accordance with subsection 23-125(a)(2) of this division prior to the expiration of the user's existing wastewater discharge permit. An expired permit will continue to be effective and enforceable until the permit is reissued. The user will not be subject to penalties if:

(1) The user has submitted a complete permit application at least sixty (60) days prior to the expiration date of the user's existing permit; and

(2) The failure to reissue prior to expiration of the previous permit is not due to any act or failure to act on the part of the user.

Sec. 23-126. Enforcement.

(a) *Notice of violation.*

(1) When a director finds that any person has violated, or continues to violate, this chapter or any permit or order issued hereunder, the director may issue to such person a written notice of violation.

(2) No later than the tenth day after receipt of the notice, the violator shall submit to the issuing director an explanation of the violation and a plan for the satisfactory correction and prevention of a reoccurrence of the violation. Such plan shall include specific actions to be taken by the violator.

(3) If the violator denies that any violation occurred, or contends that no corrective action is necessary, he shall submit to the director no later than the tenth day after receipt of the notice, a written explanation of the basis of any such denial or contention.

(4) Submission of an explanation and/or plan in no way relieves a violator of liability for any violations occurring before or after receipt of the notice of violation.

(5) Issuance of a notice of violation shall not be a bar against, nor a prerequisite for, taking any other action against a violator.

(b) ~~*Revocation of permit.* The authority may revoke the permit or terminate water or sewer service of any discharger which fails to:~~ *Non-emergency termination of water supply and/or discharge.*

(1) A user who violates the following conditions is subject to the termination of its city-provided water supply and/or its discharge:

a. Violation of wastewater discharge permit conditions;

b. Failure to accurately report the wastewater constituents and characteristics of its discharge;

c. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

d. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or

e. Violation of the pretreatment standards of this division.

f. The user will be notified of the proposed termination of its water supply and/or discharge, and may petition for a reconsideration and hearing.

~~(1) Factually report the wastewater constituents and characteristics of its discharge; or~~

~~(2) Report significant changes in wastewater constitutes or characteristics; or~~

~~(3) Allow reasonable access to the discharger's premises by representatives of the authority for the purpose of inspection or monitoring; or~~

g. ~~(4)~~ Pay sewer charges; ~~or~~

h. ~~(5)~~ Meet compliance schedules; ~~or~~

i. ~~(6)~~ Fulfill the conditions of its permit, or this division, or to obey any final judicial order with respect thereto.
j. Failure to meet effluent limitations; including Best Management Practies, based on applicable Pretreatment Standards; or
k. A 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 this ordinance orindividual discharge permit.

(c) ~~*Notification of violation.*~~
(1) Whenever the authority finds that any discharger has engaged in conduct which justifies non-emergency termination ~~revocation~~ of a permit, pursuant to subsection 23-126.1 (a) hereof, the authority shall serve or cause to be served upon such discharger a written notice, either by personal delivery or by certified or registered mail, return receipt requested, stating the nature of the alleged violation.
(2) Within 30 ~~ten (10)~~ days of the date of receipt of the notice, the discharger shall respond in person or in writing to the authority with a report containing the following:
a. the problem(s) per the NOV issued;
b. the possible cause of the problem(s);
c. the steps being taken to minimize or curtail the reoccurrence of the problem(s).
(3) The user shall not recommence its discharge until the director so authorizes and:
a. The user presents proof satisfactory to the director that the non-complying discharge has ceased;
b. The user presents proof satisfactory to the director that the conditions creating the threat of imminent and substantial danger have been eliminated;
c. The user pays the city for all costs the city will incur in reinstating services.
(4) Exercise of this option by the director shall not be a bar to, nor a prerequisite for, taking any other action against the user.
(c) *Administrative orders.* Where the violation of subsection 23-126(a), hereof is not corrected by means of enforcement action listed in subsection 23-126(b), the following enforcement escalations may be used. Terms may or may not be negotiated with industrial users.
(1) *Consent order.* An agreement between the authority and the industrial user normally containing three (3) elements: (1) compliance schedules; (2) stipulated fines or remedial actions; and (3) signatures of the authority and authorized representatives.
(2) *Show cause order.* An order which directs the user to appear before the city to explain its noncompliance and show cause why more severe enforcement actions against the user should not be levied. Typically used after informal contacts or NOV's have failed to resolve noncompliance; however, it can be used at anytime.
(3) *Compliance order.* An order which directs the industrial user to achieve or restore compliance by a date specified in the order. Terms need not be discussed with the industry in advance. Typically used when noncompliance cannot be resolved without construction, repair, or process changes, or to require development of management practices, spill prevention programs, and other pretreatment program requirements.

For facilities discharging through City of Arlington to Trinity River Authority Central Regional Wastewater System

(4) *Cease and desist order.* **(Only for facilities discharging through City of Arlington to Trinity River Authority Central Regional Wastewater System).** An order which directs the noncompliance user to cease illegal or unauthorized discharges immediately, or to terminate the discharge altogether. Generally used in situations where the discharge could cause interference or pass through, or otherwise create an emergency situation.

~~(4) *Cease and desist order.* An order which directs the noncompliance user to cease illegal or unauthorized discharges immediately, or to terminate the discharge altogether. Generally used in situations where the discharge could cause interference or pass through, or otherwise create an emergency situation.~~

(d) *Right of appeal of administrative ruling.* Any discharger or any interested party shall have the right to request in writing an interpretation or ruling by the authority on any matter covered by this division and shall be entitled to a prompt written reply. In the event that such inquiry is by a discharger and deals with matters of performance or compliance with this division or deals with a permit issued pursuant hereto for which enforcement activity relating to an alleged violation is the subject, receipt of a discharger's request shall stay all enforcement proceedings pending receipt of the aforesaid written reply; provided, however, the authority may take any action it deems necessary to protect its wastewater collection and treatment system or to comply with its TPDES permit or to comply with any contract the authority has for the treatment of wastewater.

(e) *Judicial proceedings.* The authority, with respect to the conduct of any discharger contrary to the provisions of this division may authorize its attorney to commence any legal action in a court of competent jurisdiction for equitable and/or legal relief.

(1) *Injunctive relief.* When the authority finds that a user has violated, or continues to violate, any provision of this division, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the authority may petition, pursuant to Chapter 54 a District Court or other court of proper jurisdiction of Tarrant County, Texas through its attorney 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 this division on activities of the user. The authority may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunction relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(2) *Civil penalties.* The authority may also seek to recover civil penalties of up to five thousand dollars ($5,000.00) per day pursuant to V.T.C.A., Local Government Code § 54.018.

(3) *Criminal proceedings.* Notwithstanding any notice provisions contained in this division, any person who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this division commits an offense. The person shall be fined not more than two thousand dollars ($2,000.00) for each offense.

(f) *Emergency suspension of service and discharge permits.*

(1) The authority, may, for good cause shown, suspend water or wastewater service to the discharger's facility when it appears to the authority that an actual or threatened discharge presents or may present an imminent or substantial danger to the health or welfare of persons, substantial danger to the environment, interfere with the operation of a POTW, violate any pretreatment limits imposed by this division or any Permit issued pursuant to this division. Any discharger notified of the suspension of the authority's water or wastewater service and/or the discharger's permit, shall within a reasonable period of time, as determined by the authority, cease all discharges. In the event of the failure of the discharger to comply voluntarily with the suspension order within the specified time, the authority may commence judicial proceedings to compel the discharger's compliance with such order or may immediately disconnect such discharger's service line from the city water and sanitary sewer system. In the case of emergency disconnection of service, the director shall make a reasonable attempt to notify the owner or discharger before disconnecting the service line. The party whose service has been disconnected shall have an opportunity for a hearing on the issue of the illegal discharge and the disconnection as soon as possible after such disconnection has taken place.

(2) The authority may reinstate the permit and/or the wastewater or water service upon proof by the discharger of the cessation of the non-complying discharge or elimination of conditions creating the

threat of imminent or substantial danger as set forth above. The water and/or wastewater service shall be reconnected at the discharger's expense.

(g) Affirmative defenses.

(1) *~~Act of God~~. Affirmative defense to discharge violations for action in municipal or state court*.

In an action brought in municipal or state court, if a person can establish that an event that would otherwise be a violation of this division or a permit issued under this division was caused solely by an act of God, war, strike, riot, or other catastrophe, the event is not a violation of this division or the permit. In an enforcement proceeding, the user seeking to establish the occurrence of an act of God, war, strike, riot, or other catastrophe shall have the burden of proof. In the event that an act of God, war, strike, riot, or other catastrophe has been established the user shall control production of all discharges to the extent possible until such time as the reduction, loss, or failure of its treatment facility is restored or an alternative method of treatment is provided.

(2) *Affirmative defense to upset.*

In an action brought in federal court, it is an affirmative defense to an enforcement action brought for noncompliance with categorical pretreatment standards that the noncompliance was caused by upset, if the user demonstrates, through properly signed, contemporaneous operating logs, or other relevant evidence that: An upset occurred and the user can identify the cause(s) of the upset; the facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

~~(2)~~ Any discharger who experiences an upset in operations which places the discharger in a temporary state of non-compliance with this division shall inform the authority within twenty-four (24) hours of first awareness of the commencement of the upset. Where such information is given orally, the authority may at its discretion require the discharger to file a written report within five (5) working days. The report shall specify:

a. Description of the upset, its cause and the upset's impact on a discharger's compliance status.

b. Duration of non-compliance, including exact dates and times of non-compliance, and if the non-compliance continues, the time by which compliance is reasonably expected to occur.

c. All steps taken or to be taken to reduce, eliminate and prevent recurrence of such an upset or other conditions of non-compliance.

(3) *Affirmative defense to specific prohibited discharge standards.*

It is an affirmative defense in federal court to an enforcement action brought against a user for noncompliance with the general prohibitions of Section 86-88(a) or a specific prohibition of section 86-88(d)(1), (5), (7), (14), or (17), that the user did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

a. 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

b. 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.

(4) An operating upset which was not the result of negligence on the part of the discharger, and which has been documented and verified in the manner stated above shall be an affirmative defense to any enforcement action brought by the authority against a discharger for any non-compliance with the division which arises out of violations alleged to have occurred during the period of the upset.

(h) *Recovery of costs incurred by the authority.* Any discharger who discharges or causes a discharge producing a deposit or obstruction, or causes damage to or impairs the authority's wastewater system, shall be liable to the authority for any expense, loss, or damage caused by such violation or discharge. The authority shall bill the discharger for the costs incurred by the authority for any cleaning, repair, or replacement work caused by the violation or discharge. Failure to pay such bill may result in the termination of water or wastewater service.

(i) *Falsifying information.* Any person who makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this division, or falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Division, shall, upon conviction, be punished as provided in subsection 23-126(e)(3) herein.
(j) *POTW pretreatment requirements.* All POTW's shall be able to seek injunctive relief for noncompliance by industrial users with pretreatment standards and requirements. All POTWs shall also have authority to seek or assess civil or criminal penalties in at least the amount of one thousand dollars ($1,000.00) a day for each violation by industrial users of pretreatment standards and requirements. POTWs whose approved pretreatment programs require modification to conform to the requirements of this subsection shall submit a request for approval of a program modification in accordance with § 403.18, unless the state would be required to enact or amend a statutory provision, in which case the POTW shall submit such a request.
~~(k) *Non-emergency termination of water supply and/or discharge.*~~
~~(1) A user who violates the following conditions is subject to the termination of its city-provided water supply and/or its discharge:~~
~~a. Violation of wastewater discharge permit conditions;~~
~~b. Failure to accurately report the wastewater constituents and characteristics of its discharge;~~
~~c. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;~~
~~d. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or~~
~~e. Violation of the pretreatment standards of this division.~~
~~f. The user will be notified of the proposed termination of its water supply and/or discharge, and may petition for a reconsideration and hearing.~~
~~(2) The user shall not recommence its discharge until the director so authorizes and:~~
~~a. The user presents proof satisfactory to the director that the non-complying discharge has ceased;~~
~~b. The user presents proof satisfactory to the director that the conditions creating the threat of imminent and substantial danger have been eliminated;~~
~~c. The user pays the city for all costs the city will incur in reinstating services.~~
~~(3) Exercise of this option by the director shall not be a bar to, nor a prerequisite for, taking any other action against the user.~~

(Ord. No. 308, § 1, 8-11-05)

Sec. 23-127. Miscellaneous provisions.
(a) *Net/gross calculations.* The authority may elect to adjust categorical pretreatment standards to reflect the presence of pollutants in the discharger's intake water, in accordance with 40 CFR Part 403.15.
(b) *Preservation of records.* All dischargers subject to this division shall retain and preserve and make available for inspection and copying, for no less than three (3) years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring activities, sampling and chemical analyses made by or on behalf of a discharger in connection with its discharge and required by this article, and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements including documentation associated with Best Management Practices established under Sec. 23-123(e)(9). 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. All records which pertain to matters which are the subject of administrative adjustment or any other enforcement or litigation activities brought by the

authority pursuant hereto shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

(c) *Costs of administering program.* The authority may make such charges, known as monitoring and pretreatment charges, as are reasonable for services rendered in administering the programs outlined in this division. Such charges may include, but are not limited to:
(1) Permitting industrial facilities;
(2) Inspection;
(3) Sample analysis;
(4) Monitoring; and
(5) Enforcement.
(d) *Right of revision.* The authority reserves the right to amend this division to provide for more or less stringent limitations or requirements on discharges to the sanitary sewer or POTW where deemed necessary to comply with the objectives set forth in section 23-122.
(e) *Publication of list of significant violations.*
(1) **(For facilities discharging to the City of Fort Worth Village Creek Wastewater Treatment Facility).**
A User shall be determined by the authority to be in a state of significant noncompliance if a User's violation meets one or more criteria listed in 40 CFR 403.8 (f) (2) (viii). The authority shall annually publish, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the City, a list of users that have significantly violated federal pretreatment requirements during the previous twelve (12) months. The director, or the director's designee, shall be responsible for calculating the users who have committed significant violations.
Significant Industrial Users are subject to the SNC criteria listed in paragraphs a through h below. Group II non-significant industrial users that have been issued a permit shall be subject to SNC criteria listed in paragraphs c through h below. Group VI non-significant categorical industrial users shall be subject to SNC criteria listed in paragraphs c through h below. All other industrial users are subject to the SNC criteria listed in paragraphs c, d and h of this Section. Significant ~~violation~~ noncompliance (SNC) shall mean any of the following:
a. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of wastewater measurements taken for the same pollutant parameter during a six-month period exceed a numeric pretreatment standard or requirement, including instantaneous limits for the same pollutant parameter by any amount;
b. Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily numeric pretreatment standard or requirement including instantaneous limits multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
c. Any other discharge violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (Daily Maximum, long-term average, instantaneous limit or a narrative standard) that the authority believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
d. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the authority's exercise of its emergency authority to halt or prevent such a discharge;
e. Failure to meet, within a stipulated deadline of the scheduled date (90 days), a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
f. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

g. Failure to accurately report noncompliance; or
h. Any other violation(s), which may include a violation of Best Management Practices, that the authority determines will adversely affect the operation or implementation of the local pretreatment program.

(2) (For facilities discharging through City of Arlington and to the Trinity River Authority Central Regional Wastewater Treatment System).

A User shall be determined by the authority to be in a state of significant noncompliance if a User's violation meets one or more criteria listed in 40 CFR 403.8 (f) (2) (vii) [rev. 7/24/90]. The authority shall annually publish in the authority's official newspaper a list of users that have significantly violated federal pretreatment requirements during the previous twelve (12) months. The director, or the director's designee, shall be responsible for calculating the users who have committed significant violations. Significant violation shall mean any of the following:

a. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
b. Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
c. Any other discharge violation that the authority believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
d. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the authority's exercise of its emergency authority to halt or prevent such a discharge;
e. Failure to meet, within a stipulated deadline of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
f. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
g. Failure to accurately report noncompliance; or
h. Any other violation(s) which the authority determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. No. 308, § 1, 8-11-05)
Secs. 23-128--23-175. Reserved.

KENNEDALE

CHAPTER 23 ARTICLE III

DIVISION 3. DISCHARGE REGULATIONS*

***Editor's note:** Ord. No. 308, § 1, adopted Aug. 11, 2005, repealed the former Div. 3, §§ 23-121--23-145, and enacted a new Div. 3 as set out herein. The former Div. 3 pertained to similar subject matter and derived from Ord. No. 84-8, § I(14-32.1, 14-32.2, 14-33--14-37), adopted March 8, 1984; Ord. No. 14, §§ 1--7, adopted Oct. 10, 1991.

State law references: Discharge regulations authorized, V.T.C.A., Water Code § 26.176.

Sec. 23-121. Definitions.

When used in this division, these terms shall be defined as follows:

Abnormal sewage. Any industrial waste discharged into the authority's sanitary sewer which, when analyzed, shows by weight a total suspended solids (TSS) concentration greater than 250 mg/L or a biochemical oxygen demand (BOD) concentration greater than 250 mg/L. In addition, the authority may judge independently a waste's suitability for discharge to the POTW that requires additional treatment, based upon BOD, TSS or other characteristics, as abnormal. Any waste in this classification must be made acceptable for discharge into the POTW as defined in this division.

Act. The Clean Water Act (33 U.S.C. 1251 et seq.), as amended.

Aliquot: a measured portion.

Approval authority. Director of the Texas Commission on Environmental Quality ("TCEQ").

Authority. The City of Kennedale, Texas.

Authorized representative of the industrial user. Authorized representatives (authorized signatories) for wastewater discharge permit applications and for reports submitted under section 23-125, of this division are:

(1) A responsible corporate officer, if the discharger submitting the application or report is a corporation. This includes the president, vice-president, secretary or treasurer 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.

(2) 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 or any control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(3) For a partnership or sole proprietorship, a general partner of the proprietor, respectively.

(4) The principal executive officer or director having responsibility for the overall operation of the facility if the discharger is a federal, state or local governmental entity, or their agents.

(5) A duly authorized representative of the individual designated in subsections (1) through (4) above if:

a. The authorization is made in writing by the individual described above in subsections (1) through (4); and

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates (such as a plant manager), or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company;

c. The written authorization is submitted to the city. If an authorization is no longer accurate because a different individual or position has responsibility, a new authorization must be submitted to the city prior to or together with any reports signed by an authorized representative.

Best management practices (BMP). Means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 23-123(e) [40 CFR 403.5(a)(1) and (b)] and to prevent or reduce pollution. 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

Biochemical oxygen demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees Centigrade, expressed as parts per million by weight or in terms of milligrams per liter.

Bypass. The intentional diversion of waste streams or wastewater from any portion of a discharger's wastewater treatment equipment or pretreatment facility.

Categorical industrial user. An Industrial User subject to a categorical Pretreatment Standard or categorical standard.

Categorical pretreatment standards. Limitations on pollutant discharges to POTW's promulgated by EPA in accordance with section 307 of the Clean Water Act, that apply to specified process wastewaters of particular industrial categories [40 CFR 403.6 and Parts 405--471].

CFR. Code of Federal Regulations.

City. The City of Kennedale, Texas.

COD (Chemical Oxygen Demand). The measure of the oxygen-consuming capacity of inorganic matter present in the water or wastewater expressed in mg/L as determined by the amount of oxidant consumed from a chemical reflux. Such term does not, however, differentiate between stable and unstable organic matter, and therefore does not necessarily correlate with BOD.

Combined wastestream formula (CWF). A procedure found in 40 CFR 403.6 (e) for calculating fixed alternative discharge limits at industrial facilities applicable when regulated process wastewater, subject to a categorical pretreatment standard, is mixed with non-regulated wastewaters prior to sampling.

Composite sample. A mixture of grab samples collected at the same sample point at different times and composed of not less than four (4) samples. The series of samples may be collected on a time or flow proportional basis.

(1) Time proportional composite sample. A sampling method which combines discrete samples of constant volume collected at constant time intervals (e.g., two hundred (200) milliliter samples collected every half hour for a twenty-four-hour period).

(2) Flow proportional composite sample. A sampling method which combines discrete samples collected over time, based on the flow of the waste stream being sampled. There are two (2) methods used to collect this type of sample. One method collects a constant sample volume at time intervals which vary based on the stream flow [e.g., two hundred (200) milliliters of sample collected for every five thousand (5,000) gallons discharged]. The other method collects samples of varying volume, based on stream flow, at constant time intervals.

(3) Flow proportional composite will be used only in locations that have the capability to measure flow during the sampling period.

Contaminated. Means containing a harmful quantity of any substance.

Control authority. The City of Fort Worth, Texas or the Trinity River Authority, as holders of the respective Texas Pollutant Discharge Elimination System (TPDES) permits and the City of Arlington as holder of the interlocal wastewater contract with the City of Kennedale.

Cooling water. The water discharged from any system of condensation such as air conditioning, cooling, refrigeration or water used as a coolant in cooling towers where the only pollutant is thermal.

Director. The director of public works of the city, or his/her authorized representative.

Discharge. In its verb form: to deposit, conduct, drain edit, throw, run, allow to seep or otherwise release or dispose; to allow, permit or suffer any of these acts or omissions. In its noun form: the product of any of these acts.

Discharger. Any user discharging an effluent into a POTW by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, intercepting ditches, and all constructed devices and appliances appurtenant thereto. The term includes owners and occupants of such premises.

Disposal: The discharge, deposit, injection, dumping, spilling, leaking or placing of industrial, liquid or hazardous waste into or on land, water or the POTW.

EPA. Environmental Protection Agency of the federal government.

Existing source. Any source of discharge, the construction or operation of which commenced prior to the publication by the EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the act.

Garbage. Animal and vegetable waste or residue from preparation, cooking or dispensing of food or from the handling, storage, and sale of food products and produce.

Generator: A person who causes, creates, generates, or otherwise produces waste.

gpd. Gallons per day.

Grab sample. A sample which is taken from a waste stream on a one-time basis with no regard to the flow of the waste stream and without consideration of time. The sample is collected over a period of time not exceeding fifteen (15) minutes.

Hazardous Waste: Any liquid, semi-liquid or solid waste (or combination of wastes), which because of its quantity, concentration, physical, chemical or infectious characteristics is:

a. Identified as hazardous waste in 40CFR Part 261; or

b. Identified or listed as a hazardous waste under the Texas Solid Waste Disposal Act, Texas Health and Safety Code, Chapter 361.

Indirect discharge or discharge. The introduction of pollutants into a POTW from any non-domestic source regulated under section 307(b), (c) or (d) of the act.

Industrial waste. Solid, liquid or gaseous waste resulting from any industrial, manufacturing, trade, or business process or from the development, recovery or processing of natural resources.

Industrial user or user. A source of indirect discharge.

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

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

(1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(2) Therefore is a cause of a violation of any requirement of the POTW's TPDES 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; or
(3) Therefore is a cause of a violation of a wastewater contract for sewage disposal or of receiving water quality standards.

Maximum daily average. Means the maximum concentration of a substance allowed in a discharge as determined from a laboratory test of a daily composite sample. The daily composite sample is the concentration of discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.

May. Is permissive.

mg/L. Milligram per liter.

Monitored User: Commercial and industrial users which are not classified as Significant Industrial Users and do not discharge a significant amount of regulated pollutants on a regular basis.

Monthly Average Limit. Means 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.

NNew source. 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:
(1) The building, structure, facility or installation is constructed at a site at which no other source is located; or
(2) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
(3) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. 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.
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 subsections (2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment. Construction of a new source under this definition has commenced if the owner or operator has;
a. Begun, or caused to begin as part of a continuous onsite construction program;
1. any placement, assembly, or installation of facilities or equipment; or
2. significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
b. 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 definition.

Noncontact cooling water. Water used for cooling which does not come into direct contact with raw materials, intermediate product, waste product, or finished product.

Non-significant Categorical Industrial User **(For facilities discharging to the City of Fort Worth Village Creek Wastewater Treatment Facility)** means an Industrial User that is subject to categorical Pretreatment Standards may, at the discretion of the Director, be permitted as a Non-Significant Categorical Industrial User (NSCIU) based on a finding that the industrial user never discharges categorical wastewater and the following conditions are met:

(a)

The industrial us(a) The Industrial User, prior to City's finding, has consistently complied with all applicable c categorical Pretreatment Standards and Requirements;

(b) The Industrial User annually submits the certification statement required in Section 12.523-125.1(d)(9)-633(B) [see 40 CFR 403.12(q)], together with any additional information necessary to support the certification statement; and

(c) The Industrial User never discharges any categorical process wastewater into the sanitary sewer.

Normal Wastewater: Wastewater in which the average concentration of Total Suspended Solids is not more than 250mg/L and BOD is not more than 250mg/L, and which is otherwise acceptable to be discharged into a sanitary sewer under the terms of this Chapter.

NPDES (National Pollutant Discharge Elimination System): National Pollutant Discharge Elimination System permit program of the Environmental Protection Agency, and/or the permit pogram of the state agency delegated to act on the Environmental Protection Agency's behalf with an approved pretreatment program (e.g. TPDES or Texas Pollutant Discharge Elimination System.).

North American Industry Classification System (NAICS). Is a system used by the Federal Government for collecting and organizing industry-related statistics. The NAICS codes are updated every five years to stay current with industry developments.

O and M (or O & M). Operation and maintenance.

Other wastes. Decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, and all other substances except sewage and industrial wastes.

Owner or occupant. The person, firm, or public or private corporation, using the lot, parcel of land, building or premises connected to and discharging sewage, industrial wastewater or liquid, into the sanitary sewage system of the city, and who pays, or is legally responsible for the payment of, water rates or charges made against the said lot, parcel of land, building or premises, if connected to the water distribution system of the city, or who would pay or be legally responsible for such payment if so connected.

Over Load: The discharge of BOD/COD, solids or wastewater volume in excess of the POTW's capacity.

Pass through. The discharge of pollutants through the POTW into waters of the United States in quantities or concentrations which are a cause of or significantly contribute to a violation of any requirement of the POTW's TPDES permit.

Permit. Wastewater discharge permit, issued to non-domestic discharges into the sanitary sewerage system of the POTW.

Person. Any individual, business entity, partnership, corporation, governmental agency, political subdivision, or any agent or employee thereof.

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

Polluted Water: Water and/or liquid waste containing any of the following:

a. Free or emulsified grease, and/or oil.

b. Acids or alkalis.

c. Phenols or other substances producing taste or odor in receiving water.

d. Toxic or poisonous substances in suspension, colloidal state or solution.

e. Noxious or otherwise obnoxious or odorous gases, liquids or solids.

f. More than ten (10) mg/L of Total Suspended Solids or BOD, or both.

g. Color; either True or Apparent, exceeding fifty (50) units.

h. More than 500 mg/L of dissolved solids, more than 250mg/L of chlorides or more than 250mg/L sulfates.

i. A pH value of less than 5.5 or greater than 11.0 for discharges to TRA; and lower than 5.0 or higher than 12.0 for discharges to Fort Worth.

j. Any water or wastewater not approved for discharge into Water of the State by the TCEQ.

Pollutant. Dredged spoil, solid, waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

POTW (publicly owned treatment works). A treatment works as defined by section 212 of the Act, which is owned by the control authority . This definition includes any devices and systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any other conveyances which convey wastewater to a treatment plant.

Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the sanitary sewer.

Pretreatment requirements. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.

Pretreatment standard. The term "pretreatment standard," or "standard" means prohibited discharge limits established pursuant to 40 CFR Part 403.5, categorical pretreatment standards, and local limits, including BMPs.

Process wastewater. Means it is the water that comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, waste product, or wastewater.

Public Sewer: Pipe or conduit carrying sanitary or storm wastewater or unpolluted drainage in which owners of abutting properties shall have the use, subject to control by the City.

Public works utility superintendent (or superintendent). Public works utility superintendent of the city, or his authorized representative.

Sanitary sewer. A publicly owned pipe or conduit designed to collect and transport industrial waste and domestic sewage to the POTW.

Sanitary Sewer Service. A sewer conveying wastewater from the premises of a User to the POTW.

Septage. Wastes removed from a septic tank.

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

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

Shall. Is mandatory.

Significant change. An increase or decrease in the volume of wastewater discharged by more than twenty (20) percent from the data submitted in the permit application, or the deletion or addition of any pollutant regulated by the authority or by a categorical standard. Volumes are those measured by the water service meter, a verifiable estimate, or a permanently installed effluent flow meter approved by the authority.

Significant industrial user (SIU). (a) **(For facilities discharging to the City of Fort Worth Village Creek Wastewater Treatment Facility).**

(1) All industrial users subject to categorical pretreatment standards and any other industrial user that:

a. Discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to a POTW (excluding sanitary, noncontact cooling or boiler blowdown wastewater);

b. Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of a POTW; or

c. Is designated as such by the authority on the basis that the industrial user has a reasonable potential for adversely affecting a POTW's operation or for violating any pretreatment standard or requirement.

(2) An Industrial User that is subject to categorical Pretreatment Standards may, at the discretion of the Director, be permitted as a Non-Significant Categorical Industrial User (NSCIU) based on a finding that the industrial user never discharges categorical wastewater (excluding sanitary, non-contact cooling and boiler blow-down wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

a. The Industrial User, prior to City's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;

b. The Industrial User annually submits the certification statement required in Section 12.5-633(B) [see 40 CFR 403.12(q)], together with any additional information necessary to support the certification statement; and

c. The Industrial User never discharges any categorical process wastewater into the sanitary sewer.

(3) Upon a finding that a noncategorical industrial user meeting the criteria for a significant industrial user has no reasonable potential for adversely affecting a POTW's operation or for violating any pretreatment standard or requirement, the authority may at any time on its own initiative or in response to a petition received from a noncategorical industrial user, determine such user is not a significant industrial user.

(b) **(For facilities discharging through the City of Arlington to Trinity River Authority Central Regional Wastewater System).**

All industrial users subject to categorical pretreatment standards and any other industrial user that:

(1) Discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to a POTW (excluding sanitary, noncontact cooling or boiler blowdown wastewater);

(2) Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of a POTW; or

(3) Is designated as such by the authority on the basis that the industrial user has a reasonable potential for adversely affecting a POTW's operation or for violating any pretreatment standard or requirement.

Upon a finding that a noncategorical industrial user meeting the criteria for a significant industrial user has no reasonable potential for adversely affecting a POTW's operation or for violating any pretreatment standard or requirement, the authority may at any time on its own initiative or in response to a petition received from a noncategorical industrial user, determine such user is not a significant industrial user.

Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards of this ordinance. 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, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

Standard Industrial Classification (SIC) Code. The codes which best describe the activities conducted at the facility or establishment. SIC codes are 4 digit numbers used by the Bureau of Census as part of a system to categorize and track the types of business activities conducted in the United States. The first two digits of the code represent the major industry group and the second two digits represent the specific subset of that group. A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

Standard methods. "Standard Methods for the Examination of Water and Wastewater", a publication prepared and published jointly by the American Public Health Association, American Waterworks Association and the Water Pollution Control Federation, as it may be amended from time to time.

State: The State of Texas.

Storm Sewer: All roads with drainage systems, streets, catch basins, curbs, gutters, ditches, watercourses and storm drains, which are designed or used for collecting or conveying storm water.

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

Total suspended solids (TSS). Solids that either float on the surface of, or in suspension in, water, sewage or other liquid and which are removable by laboratory filtering.

Total toxic organics (TTO). The sum of masses or concentration of the toxic organic compounds listed in 40 CFR 122 Appendix D, Table II, excluding pesticides, found in industrial users' discharges at a concentration greater than 0.01 mg/L. Only those parameters reasonably suspected to be present, to be determined by the city, if any, shall be analyzed for with non-categorical industries. With categorical industries, the list of TTOs is specific for every applicable federal category. TTO's will be sampled for as stipulated in the particular category or those parameters reasonably suspected to be present, to be determined by the city, where not stipulated.

Texas Pollutant Discharge Elimination System (TPDES) Permit. Permit issued by the Texas Commission on Environmental Quality under authority delegated pursuant to 33 USC 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis.

Toxic Pollutant: Any substance that is identified as hazardous waste in 40 CFR Part 261 or established pursuant to 40 CFR Part 403.

TRA. Trinity River Authority.

Transporter: A person who owns or operates a vehicle used for the purpose of transporting waste, or a person who authorizes such operation.

Upset. An exceptional incident in which a discharger unintentionally and temporarily is in a state of noncompliance with the standards established in this division, due to factors beyond the reasonable control of the discharger and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof. Any affirmative defenses to upset only apply to federal court actions as per Section 23-126 of this ordinance.

U.S.C. United States Code.

User. Means a person who is a source of an indirect discharge.

Waste: Rejected, unutilized or superfluous substances in liquid, gaseous or solid form resulting from domestic, agricultural, commercial or industrial activities.s

Wastewater:. Liquid and water-carried industrial waste and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Watercourse: A natural or man-made channel in which a flow of water occurs, either continuously or intermittently.

Waters of the State: All streams, lakes, ponds, marshes, watercourses, waterways, wells, 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 contained within, flow through or border upon the State or any portion thereof.

(Ord. No. 308, § 1, 8-11-05)

Sec. 23-122. Purpose and policy; Administration

(a) This division provides for prohibitions on discharges of certain substances into the public sewer system of the city from all sources, domestic, commercial, or industrial. A further purpose of this division is to set forth uniform requirements for industrial dischargers into the authority's wastewater collection and treatment systems, and to enable the authority to protect the general public's health and POTW personnel in conformance with all applicable state and federal laws relating thereto, including the Clean Water Act. Parts of this division are enacted pursuant to regulations established by the U.S. Environmental Protection Agency (EPA) as set forth in 40 CFR Part 403 and all applicable state and federal laws, including the Clean Water Act (33 United States Code 1251 et seq.) and as set forth in 40 CFR Part 403.

(b) All categorical pretreatment standards, lists of toxic pollutants, record-keeping requirements, industrial categories and other standards and categories which have been or which will be promulgated by the EPA shall be incorporated as a part of this division, as will EPA regulations regarding sewage pretreatment established pursuant to the act, and amendment of this division to incorporate such changes shall not be necessary. The authority shall maintain current standards and regulations which shall be available for inspection and copying.

(c) The objectives of this division are:

(1) To prevent the introduction of pollutants into the authority wastewater system which will interfere with the normal operation of the system, including interference with the use or disposal of sludge, or contaminate the resulting sludge;

(2) To prevent the introduction of pollutants into the POTW, and which will pass through the system into receiving waters or the atmosphere or which are otherwise incompatible with the system;

(3) To improve the opportunity to recycle or reclaim wastewater and sludge from the system;

(4) To provide for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW;

(5) To prevent the entrance of pollutants into watercourses within the city and to maintain the quality of water consistent with public health and enjoyment;

(6) To ensure that the quality of wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;

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

(8) To enable the city to comply with its contracts with the City of Fort Worth and the City of Arlington and to enable the Trinity River Authority and the City of Fort Worth to comply with their NPDES or TPDES permit conditions, sludge use and disposal requirements, and any other federal and state laws to which the POTW is subject.

(d) The regulation of discharges into the authority's wastewater system under this Division shall be accomplished through the issuance of permits, as specified in section 23-125, and by monitoring and inspection of facilities, according to this division.

(e) The director shall have the authority to promulgate such administrative regulations which are consistent with this article and as are from time to time necessary for the enforcement of this division.

(f) For the purpose of promoting consistency of enforcement throughout the city's jurisdiction and service areas, the director shall promulgate an enforcement response plan.

(g) The director and the director's authorized representatives are authorized to administer, implement, and enforce the provisions of this division. Additionally, the director and the director's authorized representatives are authorized to make inspections pursuant to this division and to take enforcement action against violators.

(Ord. No. 308, § 1, 8-11-05)

Sec. 23-123. Prohibited discharges.

(a) *Discharges to storm drains and watercourses.* It shall be unlawful for any person to discharge or cause to be discharged any wastewater into any storm drain or watercourse within the city, except for those persons with approved permits for such discharges.

(b) *General prohibited discharges.*

(1) No person shall discharge or cause to be discharged any storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, and unpolluted wastewater or drainage from downspouts, yard drains, yard fountains and ponds, or lawn sprays into any sanitary sewer.

(2) Water from unpolluted industrial water or cooling water from various equipment shall not be discharged into sanitary sewers if an alternate acceptable means of disposal is available. If an alternate acceptable means of disposal is not available, such water may be discharged into the sanitary sewer with the approval of the city.

(3) No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(c) *Prohibited sewer connections.* It shall be unlawful for any person to deposit or discharge into the sanitary sewer any liquid or solid waste, including trucked or hauled wastes, unless such deposit or discharge has been approved by the authority.

(d) *Specific discharge prohibitions.* No person shall contribute or cause to be discharged directly or indirectly, into any public sanitary sewer any of the following described substances, materials, water or waste:

(1) *Temperature.* Any liquid or vapor having a temperature higher than one hundred fifty degrees (150°) Fahrenheit (65° Centigrade) or a temperature which inhibits or interferes with biological activity in the POTW treatment plant. In no case shall wastewater be introduced which would have a temperature exceeding 40 degrees C (104 degrees F) upon entering the POTW treatment plant.

(2) *Solidifying substance.* Any water or waste which contains wax, grease, oil, petroleum oil, nonbiodegradable cutting oil, products of mineral oil origin, plastic or other substance that will solidify or become discernibly viscous at temperatures between thirty-two degrees (32°) to one hundred fifty degrees (150°) Fahrenheit, thereby contributing to the clogging, plugging or otherwise restricting the flow of wastewater through the collection system;

(3) *Explosive.* Pollutants which create a fire or explosion hazard in the sewer system or POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than one hundred forty degrees (140°) Fahrenheit or sixty degrees (60°) Centigrade using the test methods specified in 40 CFR Part 261.21. This includes flammable or explosive liquids, solids or gases such as gasoline, kerosene, benzene, naphtha, etc., which by reason of their chemical properties or quantity may be sufficient, either alone or by interaction, to cause fire or explosion.

(4) *Obstruction.* Solid or viscous substances in quantities capable of causing obstruction in the flow in sewers or other interference, such as, but not limited to, ashes, cinders, asphalt, concrete, cement, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, whole blood, paunch manure, hair and fleshings, entrails, lime slurry, lime residues, slops, chemical residues, paint residues, or bulk solids;

(5) *Garbage.* Any garbage that has not been properly comminuted or shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half-inch in any dimension;

(6) *Gases.* Any noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance and repair;

(7) *Sludge.* Any substance which may cause the POTW's effluent or treatment residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process as

determined pursuant to criteria in this division. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the act or any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Resource Conservation and Recovery Act, the Clean Air Act, the Toxic Substances Control Act, or state standards applicable to the sludge management method being used;

(8) *TPDES.* Any substance which will cause the POTW to violate its TPDES or other disposal system permits, or the receiving stream water quality standards;

(9) *Objectionable color.* Any substance with objectionable color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions;

(10) *Slugload.* Any dump or slugload;

(11) *Hazard to human life.* Any wastewater which causes a hazard to human life or creates a public nuisance;

(12) *Toxicity test.* Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;

(13) *Swimming pool.* Swimming pool drainage from private residential pools may not be discharged to the sanitary sewer system. Swimming pool drainage from public and semi-public swimming pools may be discharged to the POTW with the prior consent of the authority. Swimming pool filter backwash may be discharged to the POTW;

(14) *Detergents.* Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;

(15) *Medical waste.* Medical wastes, except as specifically authorized by the authority in a wastewater discharge permit;

(16) *Pollutants.* Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(17) *Interference.* Any pollutant, including oxygen-demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause Interference with the POTW.

(18) *Oils.* Petroleum oil, non-biodegradable cutting oil, or product of mineral oil origin in amounts that will cause interference or pass through.

(19) *Trucked or hauled pollutants.* Trucked or hauled pollutants, except at discharge points designated by the authority in accordance with subsection 23-123(c) of this division.

(20) *pH.* Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0, unless the works is specifically designed to accommodate such discharges.

(21) *Oil and grease.*

a. **(For facilities discharging to the City of Fort Worth Village Creek Wastewater Treatment Facility):**

1. Petroleum oil, non-biodegradable cutting oil, or non polar products of mineral oil origin in concentrations greater than 200 mg/L;

2. Visible free floatable polar oils, fats, or grease or a concentration greater than 250 mg/L in wastewater discharged from industrial or commercial facilities into the POTW; or

3. In no case shall discharges in amounts that cause interference or operational problems with the POTW be allowed.

b. **(For facilities discharging through the City of Arlington and to Trinity River Authority Central Regional Wastewater System):**

Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one-half (1/2) inch in any dimension of fats, oil and grease measured as total oil and grease in excess of two hundred (200) mg/L.

(22) *BTEX.* BTEX concentration greater than 1.0 mg/L.

(23) *Gases.* Hydrogen sulfide, sulfur dioxide or nitrous oxide in excess of 10 parts per million.

(24) *Radioactive.* Radioactive wastes or isotopes with a half-life or concentration exceeding limits established by the authority in compliance with applicable state or federal regulations.
(25) *Toxics.* Toxic pollutants in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, or to pass through the treatment plant and impair aquatic life in receiving water, as expressed by the results of acute or chronic toxicity tests of the POTW effluent.
(26) *Categorical.* Pollutants in excess of the limitations established in an applicable categorical pretreatment standard set forth in Title 40 of the Code of Federal Regulations.
(27) *Explosive.* Wastewaters which emanate vapors causing the atmosphere in the sewer system to exceed twenty (20) percent of the lower explosive limit in the immediate area of the discharge.

(e) *Wastewater limitations.* No person shall contribute or cause to be discharged, directly or indirectly, into any sanitary sewer any wastewater containing or having:
(1) *Acids or alkalis.* Acids or alkalis capable of causing damage to sewage disposal structures or personnel or having a pH value:
a. lower than 5.0 or higher than 12.0 for discharges to Fort Worth; or
b. lower than 5.5 or higher than 11.0 for discharges to TRA.
(2) *Local limits.* Metals in the form of compounds or elements with total concentrations exceeding the following:
TABLE INSET:

Pollutant	Instantaneous Maximum Limit (mg/l) For Discharges to TRA	Instantaneous Maximum Allowable Discharge Limit (mg/L) For Discharges to Fort Worth
Arsenic	0.2	0.25
Cadmium	0.1	0.15
Chromium	2.9	5.0
Copper	2.3	4.0
Lead	0.9	2.9
Mercury	0.0004	0.01
Molybdenum	0.8	No Limit
Nickel	4.6	2.0
Selenium	0.1	No Limit
Silver	0.8	1.0
Zinc	8.0	5.0
TTO	2.13	No Limit

(3) *Cyanide.* Cyanide or cyanogens compounds (expressed as total Cn) in excess of:
a. 1.0 mg/L for discharges to Fort Worth; and
b. 0.5 mg/L for discharges to TRA.

(4) *Best Management Practices.* The director may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits, to help implement Local Limits and other pretreatment standards and the requirements of Section 23.123.
(5) A person commits an offense if with criminal negligence the person processes or stores pollutants, substances, or wastewater prohibited by this section in such a manner that they could be discharged to the POTW.

(f) *Accidental discharge/slug control plan*
The Director shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges at the time of SIU determination or at least by the first year. All the activities associated with slug control evaluation and results are to be kept in the Industrial User file. 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. Alternatively, the director may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:
(1) Description of discharge practices, including non-routine batch discharges;
(2) Description of stored chemicals;
(3) Procedures for immediately notifying the director of any accidental or slug discharge, as required by Section 23-124 of this article; and
(4) Procedures as needed 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.

(g) *Interceptors required.* Where any wastewater may contain sand, grit, debris, undesirable wastes or oil and grease in excess of the allowable limit, appropriate interceptors to remove the aforementioned substances shall be provided and maintained by the person contributing to or causing the discharge, directly or indirectly, at his/her own expense and as required by the authority. Such discharges shall:
(1) Direct all waste streams, which may contain oil, grease, sand, grit, and solids into an approved interceptor or other pretreatment device approved by the authority.
a. All fixtures, equipment, and drain lines located in a facility's food preparation and clean up areas shall be connected to an interceptor.
b. The following types of equipment or fixtures shall be connected to a grease interceptor: pre-rinse or pre-wash sinks or sinks in dishwashing areas; dishwashers; two- or three-compartment sinks; work stoves; garbage disposals; kitchen floor drains; floor sinks; mop sinks; food prep sinks; and hand sinks.
(2) Provide equipment and facilities of a type, design and minimum capacity approved by the authority.
a. Interceptors designed to remove oil and grease shall be designed to hold one hundred (100) percent of the discharger's estimated waste stream for a minimum of twelve (12) minutes.
1. The interceptor shall have a minimum of two (2) compartments and a minimum of two (2) baffles.
2. The interceptor shall be capable of separation and retention of grease and storage of settled solids.
3. The interceptor shall be designed, constructed, and installed for adequate load bearing capacity.
4. A manhole cover shall be installed over each compartment of sufficient size to accommodate cleaning and maintenance.
5. The interceptor shall be installed in a location outside of the building.
6. The interceptor size shall be based on the following calculation or as determined by the authority.
Total fixture waste stream[1] × 40% × 12 minutes = interceptor capacity[2] .
1

The total fixture estimated waste stream is determined by adding the diameters (in inches) of all drains discharging into the interceptor and multiplying this number by 7.5.
2 In gallons.
(3) Dischargers who discharge extraordinary amounts of abnormal waste may be required to have a higher than minimum capacity interceptor.
(4) Locate the interceptor in a manner that provides ready and easy accessibility for monitoring, cleaning, and inspection.
(5) Maintain the interceptor in an effective operating condition by completely cleaning the interceptor and removing all accumulated wastes semi-annually or at a greater frequency as needed to meet regulated discharge limits.
(6) No chemicals, enzymes, bacteria, or other chemical grease-reducing agents shall be added to an interceptor.
(7) Provide monitoring facilities as detailed in the City of Arlington Water Utilities Standard Specifications for Water and Sewer Construction, or as specified by the authority.
(Ord. No. 308, § 1, 8-11-05; Ord. No. 349, § 1, 9-14-06; Ord. No. 351, § 1, 10-12-06)

Sec. 23-124. Special rules relating to industrial dischargers.

(a) *Compliance with standards.*
(1) *Applicable laws.* All dischargers shall be subject to those federal, state, and local requirements and limitations which are the most stringent. All limitations listed in this division shall apply at the point where the wastewater is discharged to the POTW.
(2) *Dilution.* No discharger shall increase the use of potable or process water in any way for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in this division.
(3) *Mass limitations.* Where deemed appropriate the authority may apply mass limitation expressed in pounds per day of pollutant discharged.
(4) *Categorical pretreatment standards.*
a. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the authority may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
b. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, director shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).
c. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
d. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.25.
(b) *Accidental discharge.*
(1) Each discharger shall provide protection from accidental discharge of prohibited or regulated materials or substances established by this division. Where necessary, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the discharge's cost and expense. When applicable, detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the authority for review, and shall be approved by the authority before construction of the facility. Review and approval of such plans and operating procedures by the authority shall not relieve the discharger from the responsibility to modify its facility as necessary to meet the requirements of this division.
(2) Dischargers shall notify the authority immediately upon the occurrence of a "slug" or accidental discharge of substances prohibited by this division. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, corrective actions taken, and be signed

by the dischargers authorized representative. Within five (5) days following such discharge, the user shall, submit to the director a detailed written report which specifies: A description and cause of the discharge, including location of the discharge, type, concentration, and volume of water; duration of noncompliance including exact dates and times of noncompliance and, if the noncompliance is continuing, an immediate response to cause the noncompliant discharge to cease; and all steps taken or to be taken to reduce, eliminate, and prevent continuation or recurrence of such an upset, slug load, or accidental discharge, spill, or other conditions of noncompliance. Any discharge discharging slugs of prohibited materials shall be liable for any expense, loss or damage to the wastewater system and the POTW, in addition to the amount of any fines imposed on the authority under state or federal law.

(3) 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 this subsection. Each employer shall instruct all applicable employees, who may cause or discover such a discharge, with respect to emergency notification procedure including the proper telephone number of the authority to be notified.

(c) *Wastewater discharges into private sewer systems.* All dischargers who discharge wastewater into a private sewer system shall comply with this division including section 23-125; provided, however, that flow measurement may be based on metered water consumption. Each discharger shall provide an agreement, signed by the owner of the sewer system, which authorizes the authority's personnel to enter onto the owner's property for purposes of inspection and monitoring of discharger's premises, and for enforcement pursuant to the term of this division.

(d) *Prohibition of bypass.*

(1) Bypass of a discharger's treatment equipment or treatment facility is prohibited and the authority may take enforcement action against the discharger unless:

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

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

c. The discharger submitted advanced, written notice of the need for a bypass.

(2) The discharger shall submit oral notice to the authority of an unanticipated bypass that exceeds categorical standards or other discharge limits within twenty-four (24) hours of the time the discharger becomes aware of the bypass. Written notice shall be provided within five (5) days of the time the discharger becomes aware of the bypass. The written notice shall include a description of the bypass and its causes, duration of the bypass, steps taken to prevent the reoccurrence of the bypass, and must be signed by the authorized representative of the discharger.(3) The authority may approve an anticipated bypass, after considering its adverse effects, if it determines that the bypass will meet all of the conditions of subsection (d)(1) above.

(e) *Notification of hazardous waste discharges.* All dischargers shall notify the authority, the control authority, the EPA's Regional Waste Management Division Director, and the approval authority in writing of any discharge into a wastewater system or POTW of any substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Any notification under this subsection must be submitted in conformance with 40 CFR Part 403.12 (p).

(f) *Pretreatment facilities.*

(a) Users shall provide wastewater treatment as necessary to comply with this article and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Division 2 of this article within the time limitations specified by EPA or TCEQ, the state, or the director, whichever is more stringent.

(b) The user shall provide, operate, and maintain any facilities necessary for compliance at the user's expense.

(c) The director may require a user to submit detailed plans describing such facilities and operating procedures to the director for review. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a disc harge acceptable to the city under the provisions of this article.
(Ord. No. 308, § 1, 8-11-05)

Sec. 23-125.1 Administration by permit. (For facilities discharging to the City of Fort Worth Village Creek Wastewater Treatment Facility)

(a) *Wastewater discharge permit required.*

(1) All nondomestic users which discharge into the POTW shall be grouped according to the following definitions:

a. Group I--Significant industrial users.

b. Group II--Commercial facilities and Non-Significant Industrial Users (NSIU). Those commercial facilities and industrial users which are not included in Group I. Examples include, but are not limited to, automotive service shops, car washes, small food processors, and photographic developing shops.

c. Group III--Classed high strength users. Restaurants or other businesses which can be classed according to any average strength or abnormal strength of their wastewater.

d. Group IV--Wastewater haulers. Septage and chemical toilet waste haulers desiring to discharge into the POTW. Waste must be generated within the city's service area.

e. Group V--Ground water remediation dischargers. Dischargers who are retrieving contaminated underground water, pretreating such water, and then discharging into the POTW.

~~The following classification of user is only applicable for these types of facilities discharging to the City of Fort Worth Village Creek Wastewater Treatment Facility.~~

f. Group VI--Non-Significant Categorical Industrial User Industrial User (NSCIU). Facility that never discharges categorical wastewater even though categorical process(es) are located on-site.

(2) No Group I, Group IV or Group V or Group VI user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the director.

(3) The Director may require any Group II or Group III user to obtain a wastewater discharge permit. Within thirty (30) days after being notified by the director that a wastewater discharge permit is required, the user shall submit a completed application in compliance with this article. After sixty (60) days from the date a Group II or Group III user is notified by the director that a permit is required, the user shall cease discharge to the POTW without a wastewater discharge permit.

(4) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this article and subjects the wastewater discharge permittee to the sanctions set out in this chapter. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.

(b) *Permits.* All industrial users determined by the city to be a significant industrial user shall submit a wastewater discharge permit application to the authority on a form provided by the authority. For significant industrial users, an application shall be filed with the director at least ninety (90) days prior to the date upon which any discharge will begin or recommence. Non-significant categorical industrial users (NSCIU) and non-significant industrial users (NSIU) shall be required to submit applications at dates specified by the Director. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(1) The application shall contain:

a. All information required by section 23-125(c).

b. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemical used or stored at the facility which are, or could accidentally or intentionally be, discharged into the POTW;
c. Number and type of employee, hours of operation, and proposed or actual hours of operation;
d. Each product produced by type, amount, process or processes, and rate of production;
e. Type and amount of raw materials processed (average and maximum per day);
f. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
g. Time and duration of discharge; and
h. Any other information as may be deemed necessary by the authority to evaluate the wastewater discharge permit application.
All dischargers shall submit an industrial waste questionnaire. The questionnaire will be reviewed by the public works utility superintendent or authorized representative. If deemed necessary, dischargers may also be required to obtain a permit as outlined herein.
(2) No categorical industrial user shall be allowed to discharge until issued a valid permit.
(3) The authority will evaluate the completed applications and data furnished by the discharger and may require additional information. If, after evaluation, the application is deemed satisfactory, then a wastewater discharge permit shall be issued after the evaluation is complete. The wastewater discharge permit shall be subject to the terms and conditions specified herein and to the regulations of the authority.
(4) If the application is denied, the applicant shall be notified in writing of the reasons for such denial. If denial is based on the authority's determination that the applicant cannot meet the wastewater discharge limitations of this division, the authority may specify that the applicant be required to provide pretreatment of the waste before it is deemed acceptable for sewer discharge.
(5) Where additional pretreatment and/or operation and maintenance activities will be required to comply with this division, pursuant to subsection (a)(5) above, the discharger shall provide a declaration of the shortest schedule by which the discharger will provide such additional pretreatment and/or implement added operational and maintenance activities.
a. The schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the discharger to comply with the requirements of this division including, but not limited to dates, relating to hiring an engineer, completing preliminary plans, completing final plans, executing contract(s) for major components, commencing construction, completing construction, and all other acts necessary to achieve compliance with this division.
b. The time increments established between milestone dates shall be the shortest practicable for the completion of the required work. Under no circumstances shall the authority permit a time increment for a single step in the compliance schedule to exceed nine (9) months. The completion date in this schedule shall not be later than the compliance date established for applicable categorical pretreatment standards.
c. Not later than fourteen (14) days following each milestone date in the schedule and the final date for compliance, the discharger shall submit a progress report to the authority, including a statement as to whether or not it complied with the increment of progress represented by that milestone date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the discharger to return the construction to the approved schedule. In no event shall more than nine (9) months elapse between such progress reports to the authority.
(6) Prior to the approval of a permit, unless exempted by the authority, all dischargers shall provide monitoring facilities to allow inspection, sampling and/or flow measurement of wastewaters before entering the sanitary sewer of the authority. Each monitoring facility shall be located on the discharger's premises; provided, however, where such location would be impractical or cause undue hardship to the discharger, the authority may approve the placement of monitoring facilities in the public street or sidewalk area. All monitoring equipment and facilities shall be maintained in a safe and proper

operating condition at the expense of the discharger. Failure to provide proper monitoring facilities shall be grounds for denial of a permit.

(c) *Permit conditions*

Permits are issued to a specific discharger for specific operation and are not assignable to another discharger or transferable to any other location without the prior written approval of the authority.

(1) Wastewater discharge permit transfer may be transferred to a new owner or operator only if the permittee gives advance notice to the authority and the authority approves the wastewater discharge permit transfer. The notice to the authority must include a written certification by the new owner or operator which:

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

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

c. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as the date of facility transfer.

(2) Wastewater discharge permit requirements:

a. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;

b. A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with subsection 23-125(b)(1) of this division, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

c. Effluent limits and Best Management Practices based on applicable general pretreatment standards as set forth in CFR part 403, categorical pretreatment standards, local limits, and state and local law;

d. Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include and identification of pollutants (or Best Management Practices) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and

e. Permits shall contain a statement of the civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by federal, state, and local law.

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

c. 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;

d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW, the unit charge or schedule of user charges and fees for the management of the wastewater discharge to the POTW;

e. The unit charge of schedule of user charges and fees for management of the wastewater discharge to the POTW;

f. Requirements for installation and maintenance of inspection and sampling facilities and equipment;

g. A statement that compliance with the wastewater discharge 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 wastewater discharge permit;

h. Other conditions as deemed appropriate by the authority to ensure compliance with this division, and state and federal laws, rules, and regulations; and

i. Limits on the maximum wastewater constituents and characteristics and location of approved discharge points.
j. Requirements to control Slug Discharge, if determined by the city to be necessary.

(d) *Reporting requirements for dischargers.*
(1) *Baseline report.*
Within one hundred eighty (180) days following the effective date for new or revised categorical pretreatment standards, or at least ninety (90) days prior to commencement of the introduction of wastewater into the POTW by a new discharger, any discharger subject to a categorical pretreatment standard shall submit to the authority a report (in a form provided by the authority), indicating the nature and concentration of all prohibited or regulated substances contained in its discharge, and the average and maximum daily flow in gallons. The report shall state whether the applicable categorical pretreatment standards are being met on a consistent basis and, if not, what additional O & M or pretreatment is necessary to bring the discharger into compliance with the applicable categorical pretreatment standards. The report shall also contain:
a. *Identifying information.* The name and address of the facility, including the name of the operator and owner.
b. *Environmental permits.* A list of any environmental control permits held by or for the facility.
c. *Description of operations.* A brief description of nature, average rate of production, standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
d. *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
e. *Measurement of pollutants.*
i. The categorical pretreatment standards applicable to each regulated process.
ii. The result of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the authority, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 23-125 herein. In cases where the standard requires compliance with a best management practice or pollution prevention alternative, the user shall submit documentation as required by the City or the applicable standards to determine compliance with the standard.
iii. Sampling must be performed in accordance with procedures set out in subsection 23-125(c)(4).
iv. The user shall take a minimum of one representative sample to compile the data necessary to comply with the requirements of this paragraph. However, the City 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. Historical data than can represent the current discharge only can be accepted as a baseline report.
v. 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. *Certification.* A statement, reviewed by the user's authorized representative 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.
g. *Compliance schedule.* If additional pretreatment, best management practices and/or O & M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such

additional pretreatment and/or O & M must be provided. 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 division must meet the requirements set out in section 23-125.
h. *Signature and certification.* All baseline monitoring reports shall be signed by an authorized representative and certified by a qualified professional as stated in 40 CFR Part 403.12(b)(6).

(2) *Ninety-day compliance report.* Within ninety (90) days following the date for final compliance by the discharger with applicable categorical pretreatment standards or ninety (90) days following commencement of the introduction of wastewater into the POTW by a new discharger, any discharger subject to categorical pretreatment standards shall submit to the authority a report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge, and the average and maximum daily flow in gallons. The report shall state whether the applicable categorical pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O & M or pretreatment is necessary to bring the discharger into compliance with the applicable categorical pretreatment standards or requirements, including best management practices. This report shall be signed by an authorized representative of the discharger.

(3) *Periodic compliance reports*
a. Any discharger subject to a categorical pretreatment standard made a part of this division shall submit to the authority a report indicating the nature and concentration of prohibited or regulated substances in the effluent which are limited by the categorical pretreatment standards hereof, including best management practices. Reports are required after the compliance date of such a pretreatment standard, or in the case of a new discharger, after commencement of the discharge, and are to be submitted at least once every six (6) months (on dates specified by the authority).
b. In addition, where applicable, this report shall include a record of all measured or estimated average and maximum daily flows. Flows shall be reported on the basis of actual measurement, provided however, where cost or feasibility considerations justify, the authority may accept reports of average and maximum flows estimated by verifiable techniques. The authority, taking into consideration extenuating factors, may authorize the submission of said reports on months other than those specified above.
c. In cases where the Pretreatment Standard requires compliance with Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by City or the Pretreatment Standard necessary to determine the compliance status of the User, and contributing information as is determined necessary to account for water usage, materials recovery, or disposal practices.
d. All non-significant categorical industrial users (NSCIU) shall submit a report annually in the month specified by the Director. The report shall be completed according to the City's current reporting requirements, including the submittal of any applicable certification statements and data obtained through appropriate sampling and analysis performed during the period covered by the report which data are representative of conditions occurring during the reporting period.
e. If the Director has determined that a non-significant industrial user (NSIU) needs a permit, then the NSIU shall submit a report annually in the month specified by the Director. The report shall be completed according to the City's current reporting requirements, including the submittal of any applicable certification statements.
f. All periodic compliance reports shall be signed and certified in accordance with section 86-90(c)(9) of this article.
g. All wastewater samples shall 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 equipment in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

h. Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(4) *Analysis and sampling procedures.*

a. All analyses shall be performed in accordance with procedures contained in 40 CFR Part 136 and amendments thereto or with any other test procedures approved by the Administrator of the EPA. Sampling shall be performed in accordance with the techniques approved by EPA. Where 40 CFR Part 136 does not include sampling or analytical techniques for the pollutants in question, or where EPA determines that the Part 136 techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by EPA.

b. Sample collection.

1. Except as indicated in subsection (c)(4) b.2. below, the user must collect wastewater samples using 24-hour flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the authority may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. 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 City, as appropriate. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

2. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

3. For sampling required in support of baseline monitoring and 90-day compliance reports required in [40 CFR 403.12(b) and (d)], 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 City Superintendent may authorize a lower minimum.

4. For the reports required by (40 CFR 403.12(e) and 403.12(h)), 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.

(5) *Reporting additional monitoring.* If an industrial user subject to the reporting requirements of this section monitors any pollutant more frequently than required by the authority, using the procedures prescribed in subsections (c)(4) and b.2. herein, the results of this monitoring along with chain-of-custody forms shall be included in the report.

(6) *Significant industrial user reporting.* Significant industrial users shall submit to the authority at least once every six (6) months (on dates as specified by the authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the authority. These reports shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques described in subsection (c)(4) herein. This sampling and analysis may be performed by the authority in lieu of the significant industrial user.

(7) *Notification of changed discharge.* Dischargers shall give prior written notification to the authority and City of Fort Worth and TRA of any potential and actual significant changes in the volume or character of pollutants in the discharge.

a. The notification to the authority shall be received at least thirty (30) days prior to change.

b. The authority may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application.

c. The authority may issue a wastewater discharge permit or modify an existing wastewater discharge permit in response to changed conditions or anticipated changed conditions.
d. For purposes of this requirement, significant changes include, but are not limited to, flow increases or decreases of twenty (20) percent or greater, the discharge of any previously unreported pollutants, and the deletion of any pollutant regulated by this division or a permit issued pursuant to this division.
e. Significant Industrial users that discharge wastewater to treatment plants operated by the City of Fort Worth shall provide prior written notification to the City and City of Fort Worth of changes to its wastewater discharges and any changes at its facility that affect the potential for a Slug Discharge.
(8) *Authority monitoring.* Sampling and analysis for the reports required by subsections (c)(1), (2), (3) and (6) above may be performed by the authority in lieu of the discharger. If all information required for the report, including flow data, is collected by the authority, the discharger will not be required to submit the report.
(9) *Signatory requirements.*
a. All applications and compliance reports submitted to the authority must contain the following certification statement and be signed by the authorized representative:
"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 and for not reporting known violations, including possibility of fine and imprisonment."
b. Annual Certification for Non-Significant Categorical Industrial Users—A facility determined to be a Non-Significant Categorical Industrial User by the director pursuant to Section 12.5 103 & 631 (a) (623-121 & 23-125.1(a)); must annually submit the following certification statement signed in accordance with the signatory requirements in **40 CFR 403.120(l)]**. 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 [month, day, year] to [months, days, year].
> (a) The facility described as [facility name] met the definition of a Non-Significant Categorical Industrial User as described in Section 23-125.1 (a) (1).
> (b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and
> (c) The facility never discharged categorical process wastewater on any given day during this reporting period.
> This compliance certification is based on the following information: _______________"

(10) *Wastewater analysis.* When requested by the authority, a user must submit information on the nature and characteristics of its wastewater within the time frame requested by the authority. The authority is authorized to prepare a form for this purpose and may periodically require users to update this information.

(e) *Inspection and flow measurement.*
(1) *Inspection.*
a. At least once a year, the director shall inspect and sample each significant industrial user (SIU), NSCIU and NSIU to determine compliance with the requirements of this article. However, the director may inspect and sample each SIU as frequently as needed during the pretreatment year. The director shall evaluate whether each SIU needs a plan to control slug discharges at the time of SIU determination, or at least by the first year. The authority, control authority, TCEQ or EPA may inspect the facilities of any discharger to determine compliance with the requirements of this division. The discharger shall allow the authority, control authority, TCEQ or EPA or their representatives to enter

upon the premises of the discharger at all reasonable hours for the purposes of inspection, sampling, or examination of records. All reports and records related to the provisions of this division shall be made available for copying and inspection by the authority, control authority, TCEQ or EPA, including documentation associated with Best Management Practices. The authority, control authority, TCEQ or EPA shall have the right to set upon the discharger's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and metering or measuring operations. User shall provide ample room in or near the monitoring facility to allow accurate sampling and preparation of samples and analysis and whether constructed on public or private property, the monitoring facilities should be provided in accordance with the City's requirements and all applicable local construction standards and specifications, and such facilities shall be constructed and maintained in such manner so as to enable the City to perform independent monitoring activities. The inspectors, agents or representatives of the authority, control authority, TCEQ or EPA charged with the enforcement of this division shall be deemed to be performing a governmental function for the benefit and health and welfare of the general public and neither the authority, control authority, TCEQ, EPA, nor any individual inspector, agent or representative these agencies shall be held liable for any loss or damage, whether real or asserted, caused or alleged to have been caused as a result of the performance of such governmental function. The failure or refusal of such owner or discharger to comply with this provision shall be grounds for the disconnection of water or sewer service to the facility.

b. Facilities regulated under this chapter are subject to the authority of the following agencies concerning access to information and right of entry onto property for purposes of implementing and enforcing federal and state pretreatment programs and other applicable law: (i) the EPA under section 308 of the Federal Clean Water Act (33 U.S.C. § 3318), as amended; and (ii) the Texas Commission on Environmental Quality (TCEQ), Water Code §§ 26.014 and 26.015, as amended, and V.T.C.A., Health and Safety Code §§ 361.032 and 361.037, as amended, provisions of the Texas Water Code and Texas Health Safety Code. If entry is denied or if a person in control cannot be located, the director shall have every recourse provided by law to secure entry. Such recourse shall include the right to obtain a search warrant under the guidelines of the Texas Code of Criminal Procedure; and for the purposes of same, any person with enforcement authority under this chapter is hereby declared to be a "health officer."

c. The industrial waste discharged or deposited into the sanitary sewers shall be subject to periodic inspection and sampling as often as may be deemed necessary by the authority, control authority, TCEQ or EPA. Samples shall be collected in such manner as to be representative of the character and concentration the waste under operational conditions. The laboratory methods used in the examination of said waste shall be those set forth in 40 CFR Part 136. The determination of the character and concentration of industrial waste shall be made at such times and on such schedules as may be established by the authority, control authority, TCEQ or EPA. Should a discharger desire a determination of the quality of such industrial waste be made at some time other than that scheduled by the authority, control authority, TCEQ or EPA, such special determination may be made by the authority, control authority, TCEQ or EPA at the expense of the owner or discharger.

d. The authority, control authority, TCEQ or EPA shall conduct surveillance activities in order to identify, independent of information supplied by industrial users, occasional and continuing noncompliance with pretreatment standards. The authority or control authority shall inspect and sample the effluent from each significant industrial user at least once a year. The result of such activities shall be available to the approval authority upon request.

(2) *NOV/repeat sampling and reporting.* If sampling performed by an industrial user indicates a violation, the user shall notify the control authority within twenty-four (24) hours of becoming aware of the violation. Within ten (10) days submit to the director a report which addresses: The time, date, location, processes, and operations associated with the violation, and the personnel assigned responsibility and/or present during the violation; the cause or probable cause of the noncompliance;

and the actions taken and implemented to meet permit conditions. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within thirty (30) days after becoming aware of the violation, except the industrial user is not required to resample if:

a. The control authority performs sampling at the industrial user at a frequency of at least once per month; or

b. The control authority performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

(3) *Measurement of flow.* The volume of flow used in computing sewage charges shall be based upon metered water consumption or discharge as shown in the records of meter readings maintained by the city's water department.

Where it can be shown to the satisfaction of the director that a substantial portion of the metered water does not enter the sanitary sewer, the director may require or permit the installation of additional approved meters at the owner's expense, to measure the quantity of water actually entering the sewer system. If approved by the director, the measured quantity of water actually entering the sewer system will be used to determine the sewer service charge.

Any discharger who procures all or part of its water supply from sources other than the city's water department, all or part of which is subsequently discharged into the sanitary sewer, shall install and maintain at its expense an effluent meter or flow measuring device approved by the director for the purpose of determining the proper volume of flow to be used in computing sewer service charges. Such meters or measuring devices shall be read monthly.

If the director determines that it is not practicable to measure the quantity or quality of waste by the aforesaid meters or monitoring devices, the quantity or quality of the waste shall be determined in any manner or method the director may find practicable in order to arrive at the percentage of water entering the sanitary sewage system of the authority and/or the quality of the sewage to be used to determine the sewer service charge.

(f) *Permit modifications.*

(1) The authority reserves the right to amend any permit issued hereunder in order to assure compliance by the authority with applicable laws and regulations. The authority may amend any permit for good cause including, but not limited to the following:

a. To incorporate any new or revised federal, state, or local pretreatment standards or requirements.

b. Material or substantial alterations or additions to the discharger's operation processes, or discharge volume or character which were not considered in drafting the effective permit.

c. A change in any condition in either the industrial user or the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.

d. Information indicating that the permitted discharge poses a threat to the authority's or POTW's collection and treatment systems, authority or POTW personnel or the receiving waters.

e. Violation of any terms or conditions of the permit.

f. Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting.

g. To correct typographical or other errors in the permit.

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

i. Upon request of the permittee, provided such request does not create a violation of any applicable requirements, standards, laws, or rules and regulations.

j. To incorporate, revise, or revoke new or existing best management practices.

(2) All categorical pretreatment standards promulgated and adopted by the EPA after the effective date of this division shall automatically become a part of this division. Where a discharger, subject to a categorical pretreatment standard, has not previously submitted an application for a permit as required by subsection 23-125(a)(2) above, the discharger shall apply for a permit from the authority within one hundred eighty (180) days after the promulgation of the applicable categorical pretreatment standard by

the EPA. In addition, the discharger with an existing permit shall submit to the authority within one hundred eighty (180) days after promulgation of an applicable categorical pretreatment standard, the information required by subsection 23-125(c)(1) above. The discharger shall be informed of any proposed changes in its permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
(g) *Confidential information.*
(1) All information and data submitted by a discharger to the authority or POTW may be submitted to any state or federal agency governing the POTW. Such information shall be considered subject to public disclosure, provided, however, that the discharger may request that information not be subject to public disclosure, in accordance with 40 CFR Part 2 as follows:
a. A discharger may assert a business confidentiality claim covering part or all of the information in a manner described below, and that information covered by such a claim will be disclosed only by means of the procedures set forth below.
b. If no claim of business confidentiality is asserted, all information will be subject to public disclosure without further notice to the discharger.
(2) Asserting business confidentiality claim. A discharger which is submitting information to the authority may assert a business confidentiality claim covering the information by placing on or attaching to the information, at the time it is submitted to the authority, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential portions of otherwise nonconfidential documents should be clearly identified by the discharger, and may be submitted separately to facilitate identification and handling by the authority. If the discharger desires confidential treatment only until a certain date or until the occurrence of a certain event, the notice should so state.
(3) Nothing in this division shall prevent the disclosure of information and data regarding the nature and content of a discharger's effluent, and the frequency of discharge, or a standard or limitation to be met by the discharger, and this information shall be available to the public with no restrictions. Effluent data which cannot be held as confidential is as defined in 40 CFR 2.302.
(4) The provisions of this subsection shall be subject to any public disclosure requirements which may exist under the Texas Public Information Act, V.T.C.A., Government Code Ch. 552, as amended.
(h) *Duty to reapply.* A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit re-issuance by submitting a complete permit application, in accordance with subsection 23-125(a)(2) of this division prior to the expiration of the user's existing wastewater discharge permit. An expired permit will continue to be effective and enforceable until the permit is reissued. The user will not be subject to penalties if:
(1) The user has submitted a complete permit application at least sixty (60) days prior to the expiration date of the user's existing permit; and
(2) The failure to reissue prior to expiration of the previous permit is not due to any act or failure to act on the part of the user.
(Ord. No. 308, § 1, 8-11-05)

Sec. 23-125.2 Administration by permit. (For facilities discharging through City of Arlington and to the Trinity River Authority Central Regional Wastewater System).

(a) *Permits.*
(1) All industrial users determined by the city to be a significant industrial user shall submit a wastewater discharge permit application to the authority on a form provided by the authority. The application shall contain:
a. All information required by section 23-125.2(c).
b. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemical used or stored at the facility which are, or could accidentally or intentionally be, discharged into the POTW;
c. Number and type of employee, hours of operation, and proposed or actual hours of operation;

d. Each product produced by type, amount, process or processes, and rate of production;
e. Type and amount of raw materials processed (average and maximum per day);
f. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
g. Time and duration of discharge; and
h. Any other information as may be deemed necessary by the authority to evaluate the wastewater discharge permit application.

All dischargers shall submit an industrial waste questionnaire. The questionnaire will be reviewed by the public works utility superintendent or authorized representative. If deemed necessary, dischargers may also be required to obtain a permit as outlined herein.

(2) No categorical industrial user shall be allowed to discharge until issued a valid permit.

(3) The authority will evaluate the completed applications and data furnished by the discharger and may require additional information. If, after evaluation, the application is deemed satisfactory, then a wastewater discharge permit shall be issued after the evaluation is complete. The wastewater discharge permit shall be subject to the terms and conditions specified herein and to the regulations of the authority.

(4) If the application is denied, the applicant shall be notified in writing of the reasons for such denial. If denial is based on the authority's determination that the applicant cannot meet the wastewater discharge limitations of this division, the authority may specify that the applicant be required to provide pretreatment of the waste before it is deemed acceptable for sewer discharge.

(5) Where additional pretreatment and/or operation and maintenance activities will be required to comply with this division, pursuant to subsection (a)(5) above, the discharger shall provide a declaration of the shortest schedule by which the discharger will provide such additional pretreatment and/or implement added operational and maintenance activities.

a. The schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the discharger to comply with the requirements of this division including, but not limited to dates, relating to hiring an engineer, completing preliminary plans, completing final plans, executing contract(s) for major components, commencing construction, completing construction, and all other acts necessary to achieve compliance with this division.

b. The time increments established between milestone dates shall be the shortest practicable for the completion of the required work. Under no circumstances shall the authority permit a time increment for a single step in the compliance schedule to exceed nine (9) months. The completion date in this schedule shall not be later than the compliance date established for applicable categorical pretreatment standards.

c. Not later than fourteen (14) days following each milestone date in the schedule and the final date for compliance, the discharger shall submit a progress report to the authority, including a statement as to whether or not it complied with the increment of progress represented by that milestone date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the discharger to return the construction to the approved schedule. In no event shall more than nine (9) months elapse between such progress reports to the authority.

(6) Prior to the approval of a permit, unless exempted by the authority, all dischargers shall provide monitoring facilities to allow inspection, sampling and/or flow measurement of wastewaters before entering the sanitary sewer of the authority. Each monitoring facility shall be located on the discharger's premises; provided, however, where such location would be impractical or cause undue hardship to the discharger, the authority may approve the placement of monitoring facilities in the public street or sidewalk area. All monitoring equipment and facilities shall be maintained in a safe and proper operating condition at the expense of the discharger. Failure to provide proper monitoring facilities shall be grounds for denial of a permit.

(b) *Permit conditions***.** Permits are issued to a specific discharger for specific operation and are not assignable to another discharger or transferable to any other location without the prior written approval of the authority.

(1) Wastewater discharge permit transfer may be transferred to a new owner or operator only if the permittee gives advance notice to the authority and the authority approves the wastewater discharge permit transfer. The notice to the authority must include a written certification by the new owner or operator which:

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

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

c. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as the date of facility transfer.

(2) Wastewater discharge permit requirements:

a. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;

b. A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with subsection 23-125(b)(1) of this division, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

c. Effluent limits based on applicable general pretreatment standards as set forth in CFR part 403, categorical pretreatment standards, local limits, and state and local law;

d. Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include and identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and

e. Permits shall contain a statement of the civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by federal, state, and local law.

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

c. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW, the unit charge or schedule of user charges and fees for the management of the wastewater discharge to the POTW;

e. The unit charge of schedule of user charges and fees for management of the wastewater discharge to the POTW;

f. Requirements for installation and maintenance of inspection and sampling facilities and equipment;

g. A statement that compliance with the wastewater discharge 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 wastewater discharge permit;

h. Other conditions as deemed appropriate by the authority to ensure compliance with this division, and state and federal laws, rules, and regulations; and

i. Limits on the maximum wastewater constituents and characteristics and location of approved discharge points.

(c) *Reporting requirements for dischargers.*

(1) *Baseline report.* Within one hundred eighty (180) days following the effective date for new or revised categorical pretreatment standards, or at least ninety (90) days prior to commencement of the introduction of wastewater into the POTW by a new discharger, any discharger subject to a categorical pretreatment standard shall submit to the authority a report (in a form provided by the authority), indicating the nature and concentration of all prohibited or regulated substances contained in its discharge, and the average and maximum daily flow in gallons. The report shall state whether the applicable categorical pretreatment standards are being met on a consistent basis and, if not, what additional O & M or pretreatment is necessary to bring the discharger into compliance with the applicable categorical pretreatment standards. The report shall also contain:

a. *Identifying information.* The name and address of the facility, including the name of the operator and owner.

b. *Environmental permits.* A list of any environmental control permits held by or for the facility.

c. *Description of operations.* A brief description of nature, average rate of production, standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

d. *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).

e. *Measurement of pollutants.*

1. The categorical pretreatment standards applicable to each regulated process.

2. The result of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the authority, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 23-125 herein.

3. Sampling must be performed in accordance with procedures set out in subsection 23-125(c)(4).

f. *Certification.* A statement, reviewed by the user's authorized representative 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.

g. *Compliance schedule.* If additional pretreatment and/or O & M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O & M. 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 division must meet the requirements set out in section 23-125.

h. *Signature and certification.* All baseline monitoring reports shall be signed by an authorized representative and certified by a qualified professional as stated in 40 CFR Part 403.12(b)(6).

(2) *Ninety-day compliance report.* Within ninety (90) days following the date for final compliance by the discharger with applicable categorical pretreatment standards or ninety (90) days following commencement of the introduction of wastewater into the POTW by a new discharger, any discharger subject to categorical pretreatment standards shall submit to the authority a report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge, and the average and maximum daily flow in gallons. The report shall state whether the applicable categorical pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O & M or pretreatment is necessary to bring the discharger into compliance with the applicable categorical pretreatment standards or requirements. This report shall be signed by an authorized representative of the discharger.

(3) *Periodic compliance reports.*

a. Any discharger subject to a categorical pretreatment standard made a part of this division shall submit to the authority a report indicating the nature and concentration of prohibited or regulated substances in the effluent which are limited by the categorical pretreatment standards hereof. Reports are required after the compliance date of such a pretreatment standard, or in the case of a new discharger, after commencement of the discharge, and are to be submitted at least once every six (6) months (on dates specified by the authority).
b. In addition, where applicable, this report shall include a record of all measured or estimated average and maximum daily flows. Flows shall be reported on the basis of actual measurement, provided however, where cost or feasibility considerations justify, the authority may accept reports of average and maximum flows estimated by verifiable techniques. The authority, taking into consideration extenuating factors, may authorize the submission of said reports on months other than those specified above.

(4) *Analysis and sampling procedures.*
a. All analyses shall be performed in accordance with procedures contained in 40 CFR Part 136 and amendments thereto or with any other test procedures approved by the Administrator of the EPA. Sampling shall be performed in accordance with the techniques approved by EPA. Where 40 CFR Part 136 does not include sampling or analytical techniques for the pollutants in question, or where EPA determines that the Part 136 techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by EPA.
b. Sample collection.
1. Except as indicated in subsection (c)(4)(B)(ii), the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the authority may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
2. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
(5) *Reporting additional monitoring.* If an industrial user subject to the reporting requirements of this section monitors any pollutant more frequently than required by the authority, using the procedures prescribed in subsection (c)(4) herein, the results of this monitoring shall be included in the report.
(6) *Significant industrial user reporting.* Significant industrial users shall submit to the authority at least once every six (6) months (on dates as specified by the authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the authority. These reports shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques described in subsection (c)(4) herein. This sampling and analysis may be performed by the authority in lieu of the significant industrial user.
(7) *Notification of changed discharge.* Dischargers shall give prior written notification to the authority of any significant change in the volume or character of pollutants in the discharge.
a. The notification to the authority shall be received at least thirty (30) days prior to change.
b. The authority may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application.
c. The authority may issue a wastewater discharge permit or modify an existing wastewater discharge permit in response to changed conditions or anticipated changed conditions.
d. For purposes of this requirement, significant changes include, but are not limited to, flow increases or decreases of twenty (20) percent or greater, the discharge of any previously unreported pollutants, and the deletion of any pollutant regulated by this division or a permit issued pursuant to this division.

e. Significant Industrial users that discharge wastewater to treatment plants operated by the Trinity River Authority (TRA) shall provide prior written notification to the City and the TRA of changes to its wastewater discharges and any changes at its facility that affect the potential for a Slug Discharge.

(8) *Authority monitoring.* Sampling and analysis for the reports required by subsections (c)(1), (2), (3) and (6) above may be performed by the authority in lieu of the discharger. If all information required for the report, including flow data, is collected by the authority, the discharger will not be required to submit the report.

(9) *Signatory requirements.* All applications and compliance reports submitted to the authority must contain the following certification statement and be signed by the authorized representative:

"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 and for not reporting known violations, including possibility of fine and imprisonment."

(10) *Wastewater analysis.* When requested by the authority, a user must submit information on the nature and characteristics of its wastewater within the time frame requested by the authority. The authority is authorized to prepare a form for this purpose and may periodically require users to update this information.

(d) *Inspection and flow measurement.*

(1) *Inspection.*

a. The authority, control authority, TCEQ or EPA may inspect the facilities of any discharger to determine compliance with the requirements of this division. The discharger shall allow the authority, control authority, TCEQ or EPA or their representatives to enter upon the premises of the discharger at all reasonable hours for the purposes of inspection, sampling, or examination of records. All reports and records related to the provisions of this division shall be made available for copying and inspection by the authority, control authority, TCEQ or EPA. The authority, control authority, TCEQ or EPA shall have the right to set upon the discharger's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and metering or measuring operations. The inspectors, agents or representatives of the authority, control authority, TCEQ or EPA charged with the enforcement of this division shall be deemed to be performing a governmental function for the benefit and health and welfare of the general public and neither the authority, control authority, TCEQ, EPA, nor any individual inspector, agent or representative these agencies shall be held liable for any loss or damage, whether real or asserted, caused or alleged to have been caused as a result of the performance of such governmental function. The failure or refusal of such owner or discharger to comply with this provision shall be grounds for the disconnection of water or sewer service to the facility.

b. Facilities regulated under this chapter are subject to the authority of the following agencies concerning access to information and right of entry onto property for purposes of implementing and enforcing federal and state pretreatment programs and other applicable law: (i) the EPA under section 308 of the Federal Clean Water Act (33 U.S.C. § 3318), as amended; and (ii) the Texas Commission on Environmental Quality (TCEQ) under V.T.C.A., Water Code §§ 26.014 and 26.015, as amended, and V.T.C.A., Health and Safety Code §§ 361.032 and 361.037, as amended, provisions of the Texas Water Code and Texas Health Safety Code. (d)

c. The industrial waste discharged or deposited into the sanitary sewers shall be subject to periodic inspection and sampling as often as may be deemed necessary by the authority, control authority, TCEQ or EPA. Samples shall be collected in such manner as to be representative of the character and concentration the waste under operational conditions. The laboratory methods used in the examination of said waste shall be those set forth in 40 CFR Part 136. The determination of the character and concentration of industrial waste shall be made at such times and on such schedules as may be established by the authority, control authority, TCEQ or EPA. Should a discharger desire a determination of the quality of such industrial waste be made at some time other than that scheduled by the authority, control authority, TCEQ or EPA, such special determination may be made by the authority, control authority, TCEQ or EPA at the expense of the owner or discharger.

d. The authority, control authority, TCEQ or EPA shall conduct surveillance activities in order to identify, independent of information supplied by industrial users, occasional and continuing noncompliance with pretreatment standards. The authority or control authority shall inspect and sample the effluent from each significant industrial user at least once a year. The result of such activities shall be available to the approval authority upon request.

(2) *NOV/repeat sampling and reporting.* If sampling performed by an industrial user indicates a violation, the user shall notify the control authority 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 control authority within thirty (30) days after becoming aware of the violation, except the industrial user is not required to resample if:

a. The control authority performs sampling at the industrial user at a frequency of at least once per month; or

b. The control authority performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

(3) *Measurement of flow.* The volume of flow used in computing sewage charges shall be based upon metered water consumption or discharge as shown in the records of meter readings maintained by the city's water department.

Where it can be shown to the satisfaction of the director that a substantial portion of the metered water does not enter the sanitary sewer, the director may require or permit the installation of additional approved meters at the owner's expense, to measure the quantity of water actually entering the sewer system. If approved by the director, the measured quantity of water actually entering the sewer system will be used to determine the sewer service charge.

Any discharger who procures all or part of its water supply from sources other than the city's water department, all or part of which is subsequently discharged into the sanitary sewer, shall install and maintain at its expense an effluent meter or flow measuring device approved by the director for the purpose of determining the proper volume of flow to be used in computing sewer service charges. Such meters or measuring devices shall be read monthly.

If the director determines that it is not practicable to measure the quantity or quality of waste by the aforesaid meters or monitoring devices, the quantity or quality of the waste shall be determined in any manner or method the director may find practicable in order to arrive at the percentage of water entering the sanitary sewage system of the authority and/or the quality of the sewage to be used to determine the sewer service charge.

(e) *Permit modifications.*

(1) The authority reserves the right to amend any permit issued hereunder in order to assure compliance by the authority with applicable laws and regulations. The authority may amend any permit for good cause including, but not limited to the following:

a. To incorporate any new or revised federal, state, or local pretreatment standards or requirements.

b. Material or substantial alterations or additions to the discharger's operation processes, or discharge volume or character which were not considered in drafting the effective permit.

c. A change in any condition in either the industrial user or the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.

d. Information indicating that the permitted discharge poses a threat to the authority's or POTW's collection and treatment systems, authority or POTW personnel or the receiving waters.

e. Violation of any terms or conditions of the permit.

f. Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting.

g. To correct typographical or other errors in the permit.

h. To reflect transfer of the facility ownership and/or operation to a new owner/operator.
i. Upon request of the permittee, provided such request does not create a violation of any applicable requirements, standards, laws, or rules and regulations.

(2) All categorical pretreatment standards promulgated and adopted by the EPA after the effective date of this division shall automatically become a part of this division. Where a discharger, subject to a categorical pretreatment standard, has not previously submitted an application for a permit as required by subsection 23-125(a)(2) above, the discharger shall apply for a permit from the authority within one hundred eighty (180) days after the promulgation of the applicable categorical pretreatment standard by the EPA. In addition, the discharger with an existing permit shall submit to the authority within one hundred eighty (180) days after promulgation of an applicable categorical pretreatment standard, the information required by subsection 23-125(c)(1) above. The discharger shall be informed of any proposed changes in its permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
(f) *Confidential information.*
(1) All information and data submitted by a discharger to the authority or POTW may be submitted to any state or federal agency governing the POTW. Such information shall be considered subject to public disclosure, provided, however, that the discharger may request that information not be subject to public disclosure, in accordance with 40 CFR Part 2 as follows:
a. A discharger may assert a business confidentiality claim covering part or all of the information in a manner described below, and that information covered by such a claim will be disclosed only by means of the procedures set forth below.
b. If no claim of business confidentiality is asserted, all information will be subject to public disclosure without further notice to the discharger.
(2) Asserting business confidentiality claim. A discharger which is submitting information to the authority may assert a business confidentiality claim covering the information by placing on or attaching to the information, at the time it is submitted to the authority, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Allegedly confidential portions of otherwise nonconfidential documents should be clearly identified by the discharger, and may be submitted separately to facilitate identification and handling by the authority. If the discharger desires confidential treatment only until a certain date or until the occurrence of a certain event, the notice should so state.
(3) Nothing in this division shall prevent the disclosure of information and data regarding the nature and content of a discharger's effluent, and the frequency of discharge, or a standard or limitation to be met by the discharger, and this information shall be available to the public with no restrictions. Effluent data which cannot be held as confidential is as defined in 40 CFR 2.302.
(4) The provisions of this subsection shall be subject to any public disclosure requirements which may exist under the Texas Public Information Act, V.T.C.A., Government Code Ch. 552, as amended.
(g) *Duty to reapply.* A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit re-issuance by submitting a complete permit application, in accordance with subsection 23-125(a)(2) of this division prior to the expiration of the user's existing wastewater discharge permit. An expired permit will continue to be effective and enforceable until the permit is reissued. The user will not be subject to penalties if:
(1) The user has submitted a complete permit application at least sixty (60) days prior to the expiration date of the user's existing permit; and
(2) The failure to reissue prior to expiration of the previous permit is not due to any act or failure to act on the part of the user.

Sec. 23-126. Enforcement.

(a) *Notice of violation.*

(1) When a director finds that any person has violated, or continues to violate, this chapter or any permit or order issued hereunder, the director may issue to such person a written notice of violation.

(2) No later than the tenth day after receipt of the notice, the violator shall submit to the issuing director an explanation of the violation and a plan for the satisfactory correction and prevention of a reoccurrence of the violation. Such plan shall include specific actions to be taken by the violator.

(3) If the violator denies that any violation occurred, or contends that no corrective action is necessary, he shall submit to the director no later than the tenth day after receipt of the notice, a written explanation of the basis of any such denial or contention.

(4) Submission of an explanation and/or plan in no way relieves a violator of liability for any violations occurring before or after receipt of the notice of violation.

(5) Issuance of a notice of violation shall not be a bar against, nor a prerequisite for, taking any other action against a violator.

(b) *Non-emergency termination of water supply and/or discharge.*

(1) A user who violates the following conditions is subject to the termination of its city-provided water supply and/or its discharge:

a. Violation of wastewater discharge permit conditions;

b. Failure to accurately report the wastewater constituents and characteristics of its discharge;

c. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

d. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or

e. Violation of the pretreatment standards of this division.

f. The user will be notified of the proposed termination of its water supply and/or discharge, and may petition for a reconsideration and hearing.

g. Pay sewer charges;

h. Meet compliance schedules;

i. Fulfill the conditions of its permit, or this division, or to obey any final judicial order with respect thereto.

j. Failure to meet effluent limitations; including Best Management Practies, based on applicable Pretreatment Standards; or

k. A 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 this ordinance orindividual discharge permit.

(c)

(1) Whenever the authority finds that any discharger has engaged in conduct which justifies non-emergency termination of a permit, pursuant to subsection 23-126.1 (a) hereof, the authority shall serve or cause to be served upon such discharger a written notice, either by personal delivery or by certified or registered mail, return receipt requested, stating the nature of the alleged violation.

(2) Within 30 days of the date of receipt of the notice, the discharger shall respond in person or in writing to the authority with a report containing the following:

a. the problem(s) per the NOV issued;

b. the possible cause of the problem(s);

c. the steps being taken to minimize or curtail the reoccurrence of the problem(s).

(3) The user shall not recommence its discharge until the director so authorizes and:

a. The user presents proof satisfactory to the director that the non-complying discharge has ceased;

b. The user presents proof satisfactory to the director that the conditions creating the threat of imminent and substantial danger have been eliminated;
c. The user pays the city for all costs the city will incur in reinstating services.
(4) Exercise of this option by the director shall not be a bar to, nor a prerequisite for, taking any other action against the user.
(c) *Administrative orders.* Where the violation of subsection 23-126(a), hereof is not corrected by means of enforcement action listed in subsection 23-126(b), the following enforcement escalations may be used. Terms may or may not be negotiated with industrial users.
(1) *Consent order.* An agreement between the authority and the industrial user normally containing three (3) elements: (1) compliance schedules; (2) stipulated fines or remedial actions; and (3) signatures of the authority and authorized representatives.
(2) *Show cause order.* An order which directs the user to appear before the city to explain its noncompliance and show cause why more severe enforcement actions against the user should not be levied. Typically used after informal contacts or NOV's have failed to resolve noncompliance; however, it can be used at anytime.
(3) *Compliance order.* An order which directs the industrial user to achieve or restore compliance by a date specified in the order. Terms need not be discussed with the industry in advance. Typically used when noncompliance cannot be resolved without construction, repair, or process changes, or to require development of management practices, spill prevention programs, and other pretreatment program requirements.

For facilities discharging through City of Arlington to Trinity River Authority Central Regional Wastewater System

(4) *Cease and desist order.* **(Only for facilities discharging through City of Arlington to Trinity River Authority Central Regional Wastewater System).** An order which directs the noncompliance user to cease illegal or unauthorized discharges immediately, or to terminate the discharge altogether. Generally used in situations where the discharge could cause interference or pass through, or otherwise create an emergency situation.

~~(4) *Cease and desist order.* An order which directs the noncompliance user to cease illegal or unauthorized discharges immediately, or to terminate the discharge altogether. Generally used in situations where the discharge could cause interference or pass through, or otherwise create an emergency situation.~~
(d) *Right of appeal of administrative ruling.* Any discharger or any interested party shall have the right to request in writing an interpretation or ruling by the authority on any matter covered by this division and shall be entitled to a prompt written reply. In the event that such inquiry is by a discharger and deals with matters of performance or compliance with this division or deals with a permit issued pursuant hereto for which enforcement activity relating to an alleged violation is the subject, receipt of a discharger's request shall stay all enforcement proceedings pending receipt of the aforesaid written reply; provided, however, the authority may take any action it deems necessary to protect its wastewater collection and treatment system or to comply with its TPDES permit or to comply with any contract the authority has for the treatment of wastewater.
(e) *Judicial proceedings.* The authority, with respect to the conduct of any discharger contrary to the provisions of this division may authorize its attorney to commence any legal action in a court of competent jurisdiction for equitable and/or legal relief.
(1) *Injunctive relief.* When the authority finds that a user has violated, or continues to violate, any provision of this division, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the authority may petition, pursuant to Chapter 54 a District

Court or other court of proper jurisdiction of Tarrant County, Texas through its attorney 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 this division on activities of the user. The authority may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunction relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(2) *Civil penalties.* The authority may also seek to recover civil penalties of up to five thousand dollars ($5,000.00) per day pursuant to V.T.C.A., Local Government Code § 54.018.

(3) *Criminal proceedings.* Notwithstanding any notice provisions contained in this division, any person who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provisions of this division commits an offense. The person shall be fined not more than two thousand dollars ($2,000.00) for each offense.

(f) *Emergency suspension of service and discharge permits.*

(1) The authority, may, for good cause shown, suspend water or wastewater service to the discharger's facility when it appears to the authority that an actual or threatened discharge presents or may present an imminent or substantial danger to the health or welfare of persons, substantial danger to the environment, interfere with the operation of a POTW, violate any pretreatment limits imposed by this division or any Permit issued pursuant to this division. Any discharger notified of the suspension of the authority's water or wastewater service and/or the discharger's permit, shall within a reasonable period of time, as determined by the authority, cease all discharges. In the event of the failure of the discharger to comply voluntarily with the suspension order within the specified time, the authority may commence judicial proceedings to compel the discharger's compliance with such order or may immediately disconnect such discharger's service line from the city water and sanitary sewer system. In the case of emergency disconnection of service, the director shall make a reasonable attempt to notify the owner or discharger before disconnecting the service line. The party whose service has been disconnected shall have an opportunity for a hearing on the issue of the illegal discharge and the disconnection as soon as possible after such disconnection has taken place.

(2) The authority may reinstate the permit and/or the wastewater or water service upon proof by the discharger of the cessation of the non-complying discharge or elimination of conditions creating the threat of imminent or substantial danger as set forth above. The water and/or wastewater service shall be reconnected at the discharger's expense.

(g) Affirmative defenses.

(1) *Affirmative defense to discharge violations for action in municipal or state court*.

In an action brought in municipal or state court, if a person can establish that an event that would otherwise be a violation of this division or a permit issued under this division was caused solely by an act of God, war, strike, riot, or other catastrophe, the event is not a violation of this division or the permit. In an enforcement proceeding, the user seeking to establish the occurrence of an act of God, war, strike, riot, or other catastrophe shall have the burden of proof. In the event that an act of God, war, strike, riot, or other catastrophe has been established the user shall control production of all discharges to the extent possible until such time as the reduction, loss, or failure of its treatment facility is restored or an alternative method of treatment is provided.

(2) *Affirmative defense to upset.*

In an action brought in federal court, it is an affirmative defense to an enforcement action brought for noncompliance with categorical pretreatment standards that the noncompliance was caused by upset, if the user demonstrates, through properly signed, contemporaneous operating logs, or other relevant evidence that: An upset occurred and the user can identify the cause(s) of the upset; the facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

~~(2)~~ Any discharger who experiences an upset in operations which places the discharger in a temporary state of non-compliance with this division shall inform the authority within twenty-four (24) hours of first awareness of the commencement of the upset. Where such information is given orally, the authority may at its discretion require the discharger to file a written report within five (5) working days. The report shall specify:

a. Description of the upset, its cause and the upset's impact on a discharger's compliance status.

b. Duration of non-compliance, including exact dates and times of non-compliance, and if the non-compliance continues, the time by which compliance is reasonably expected to occur.

c. All steps taken or to be taken to reduce, eliminate and prevent recurrence of such an upset or other conditions of non-compliance.

(3) *Affirmative defense to specific prohibited discharge standards.*

It is an affirmative defense in federal court to an enforcement action brought against a user for noncompliance with the general prohibitions of Section 86-88(a) or a specific prohibition of section 86-88(d)(1), (5), (7), (14), or (17), that the user did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

a. 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

b. 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.

(4) An operating upset which was not the result of negligence on the part of the discharger, and which has been documented and verified in the manner stated above shall be an affirmative defense to any enforcement action brought by the authority against a discharger for any non-compliance with the division which arises out of violations alleged to have occurred during the period of the upset.

(h) *Recovery of costs incurred by the authority.* Any discharger who discharges or causes a discharge producing a deposit or obstruction, or causes damage to or impairs the authority's wastewater system, shall be liable to the authority for any expense, loss, or damage caused by such violation or discharge. The authority shall bill the discharger for the costs incurred by the authority for any cleaning, repair, or replacement work caused by the violation or discharge. Failure to pay such bill may result in the termination of water or wastewater service.

(i) *Falsifying information.* Any person who makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this division, or falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Division, shall, upon conviction, be punished as provided in subsection 23-126(e)(3) herein.

(j) *POTW pretreatment requirements.* All POTW's shall be able to seek injunctive relief for noncompliance by industrial users with pretreatment standards and requirements. All POTWs shall also have authority to seek or assess civil or criminal penalties in at least the amount of one thousand dollars ($1,000.00) a day for each violation by industrial users of pretreatment standards and requirements. POTWs whose approved pretreatment programs require modification to conform to the requirements of this subsection shall submit a request for approval of a program modification in accordance with § 403.18, unless the state would be required to enact or amend a statutory provision, in which case the POTW shall submit such a request.

(Ord. No. 308, § 1, 8-11-05)

Sec. 23-127. Miscellaneous provisions.

(a) *Net/gross calculations.* The authority may elect to adjust categorical pretreatment standards to reflect the presence of pollutants in the discharger's intake water, in accordance with 40 CFR Part 403.15.

(b) *Preservation of records.* All dischargers subject to this division shall retain and preserve and make available for inspection and copying, for no less than three (3) years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring activities, sampling and chemical analyses made by or on behalf of a discharger in connection with its discharge and required by this article, and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements including documentation associated with Best Management Practices established under Sec. 23-123(e)(9). 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. All records which pertain to matters which are the subject of administrative adjustment or any other enforcement or litigation activities brought by the authority pursuant hereto shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

(c) *Costs of administering program.* The authority may make such charges, known as monitoring and pretreatment charges, as are reasonable for services rendered in administering the programs outlined in this division. Such charges may include, but are not limited to:
(1) Permitting industrial facilities;
(2) Inspection;
(3) Sample analysis;
(4) Monitoring; and
(5) Enforcement.
(d) *Right of revision.* The authority reserves the right to amend this division to provide for more or less stringent limitations or requirements on discharges to the sanitary sewer or POTW where deemed necessary to comply with the objectives set forth in section 23-122.
(e) *Publication of list of significant violations.*
(1) **(For facilities discharging to the City of Fort Worth Village Creek Wastewater Treatment Facility).**
A User shall be determined by the authority to be in a state of significant noncompliance if a User's violation meets one or more criteria listed in 40 CFR 403.8 (f) (2) (viii). The authority shall annually publish, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the City, a list of users that have significantly violated federal pretreatment requirements during the previous twelve (12) months. The director, or the director's designee, shall be responsible for calculating the users who have committed significant violations.
Significant Industrial Users are subject to the SNC criteria listed in paragraphs a through h below. Group II non-significant industrial users that have been issued a permit shall be subject to SNC criteria listed in paragraphs c through h below. Group VI non-significant categorical industrial users shall be subject to SNC criteria listed in paragraphs c through h below. All other industrial users are subject to the SNC criteria listed in paragraphs c, d and h of this Section. Significant noncompliance (SNC) shall mean any of the following:
a. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of wastewater measurements taken for the same pollutant parameter during a six-month period exceed a numeric pretreatment standard or requirement, including instantaneous limits for the same pollutant parameter by any amount;
b. Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily numeric pretreatment standard or requirement including instantaneous limits multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
c. Any other discharge violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (Daily Maximum, long-term average, instantaneous limit or a narrative standard) that the authority believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

d. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the authority's exercise of its emergency authority to halt or prevent such a discharge;
e. Failure to meet, within a stipulated deadline of the scheduled date (90 days), a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
f. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
g. Failure to accurately report noncompliance; or
h. Any other violation(s), which may include a violation of Best Management Practices, that the authority determines will adversely affect the operation or implementation of the local pretreatment program.

(2) **(For facilities discharging through City of Arlington and to the Trinity River Authority Central Regional Wastewater Treatment System).**

A User shall be determined by the authority to be in a state of significant noncompliance if a User's violation meets one or more criteria listed in 40 CFR 403.8 (f) (2) (vii) [rev. 7/24/90]. The authority shall annually publish in the authority's official newspaper a list of users that have significantly violated federal pretreatment requirements during the previous twelve (12) months. The director, or the director's designee, shall be responsible for calculating the users who have committed significant violations. Significant violation shall mean any of the following:
a. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
b. Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
c. Any other discharge violation that the authority believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
d. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the authority's exercise of its emergency authority to halt or prevent such a discharge;
e. Failure to meet, within a stipulated deadline of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
f. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
g. Failure to accurately report noncompliance; or
h. Any other violation(s) which the authority determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. No. 308, § 1, 8-11-05)

Secs. 23-128--23-175. Reserved.

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Staff Report to the Honorable Mayor and City Council

Date: November 17, 2011

Agenda Item No: REGULAR ITEMS - A.

I. Subject:

Case PZ 11-10 to receive receive comments and consider action on a request for a change in zoning from “C-0” Retail Commercial to “C-1” Restricted Commercial for approximately 1.014 acres located at 4850 US Hwy 287, Kennedale, Tarrant County, Texas, more particularly described as Lot 2 Block 1R Southwest Crossing Addition. The rezoning is requested by JP Morgan Chase.

II. Originated by:

Rachel Roberts, City Planner

III. Summary:

Background & Overview.

This lot is part of the Southwest Crossing Addition, a row of lots in front of Wal-Mart. The other lots in this addition have already been developed. When the property was annexed, it was automatically zoned as R-1 Single Family Residential and was rezoned to C-0 Retail Commercial in 2008. Since the rezoning, real estate brokers for this property have been unable to find a retail business to develop it. City staff has also discussed this site with a handful of prospective businesses, but none followed through on development plans. As discussed below, this site may be unsuitable for C-0 zoning.

Notification.

Staff notified owners of real property within 200 feet of the requested rezoning and received one phone call in response. The caller expressed no opinion on the case.

Compliance with city code, comprehensive plan.

Rezoning decisions must be made in compliance with the comprehensive plan, but cities are allowed to deviate from the comprehensive plan under certain circumstances. For example, if the comprehensive plan is no longer valid, if the zoning decision would adversely affect surrounding properties, or if the current zoning is unreasonable or unsuitable, the Council could also weigh these factors when making its decision, although compliance with the comprehensive plan is the foremost consideration. As the Council is aware, the city is about half-way through the process of updating its comprehensive plan. The new plan is likely to be quite different from the current plan, but nothing in the revised plan is expected to change the nature of land use in this part of the city, which is mostly built-out. Land uses in this area will remain commercial in nature.

In addition, preliminary discussions with the comprehensive plan consultants indicate the future land use plan to be proposed will show this area as a commercial corridor. Land uses permitted in the current C-1 zoning designation would fit their description of a commercial corridor.

C-1 zoning at this site is in compliance with the Future Land Use Plan, which designates this area as commercial. Other than the designation in the Future Land Use Map, the current comprehensive plan says little about this area. The plan notes that “the economic impacts for Kennedale will include pad site development next to the big box retail.” The goals listed in the comprehensive plan are mostly silent on commercial development anywhere in the city except on Kennedale Parkway. The type of commercial development desired along Little School Road in the I-20/287 area was not mentioned.

Because the comprehensive plan includes so few comments about commercial development in this or any other specific area, it seems that any commercial zoning district would be considered in compliance with the plan.

Effect on surrounding properties.

The Commission may want to consider whether its decision may adversely affect surrounding properties. The surrounding properties are all commercial uses or vacant commercial lots, and rezoning to C-1 is therefore not likely to have an adverse effect on surrounding properties. Apartments are located nearby to the south of the site, but these apartments are already located across from commercial uses—including Wal-Mart—and the addition of one C-1 commercial property is not expected to shift the nature and character of this area.

Reasonableness or suitability of current zoning.

Another factor to consider is whether the current zoning is reasonable or suitable. While C-0 seemed suitable when the property was rezoned in 2008, the difficulty in finding a tenant for this space indicates that C-0 may not be suitable after all.

Development issues such as limited access and lot size make this location less attractive for many retail purposes. For example, the lot is too small for many dine-in restaurants such as Chili's or Cheddar's, and the restricted access (no direct drive approach from the access road or from Little School, and no break in the median on Little School road to allow left turns into the property) makes the lot less attractive to fast-food establishments, which rely on impulse shopping and easy access. A small retail establishment such as Payless Shoes could fit on this site, but such establishments are more likely to rent space in a shopping center, rather than building their own structures. A large retail establishment (such as Petsmart, Best Buy, or DSW shoes) would find it difficult to fit on this lot.

C-0 zoning allows for retail uses, but so does C-1 zoning. The other lots in the Southwest Crossing Addition are zoned C-1 and include both retail and financial uses.

Planning and zoning commission consideration.

The Planning & Zoning Commission held a public hearing on this case on October 20. The Commission voted 3-0-2 to recommend approval. However, one of the Commission members voting in favor is an employee of Chase Bank, and the Council will want to take that into consideration. The Commission member was an alternate acting in place of an absent regular member and is fairly new to her role as a Commissioner. Having been unclear on conflict of interest standards, she did not recuse herself during the vote.

Staff Recommendation and Summary.

City code states what the city council should consider in making a decision on rezoning requests. It says that the “proponent of any zoning change shall satisfy the city council that either the general welfare of the portion of the city affected by the area to be changed will be enhanced, or that the property is unusable for the purposes allowed under existing zoning" (Sec. 17-429(h)).

(1) Will the general welfare of the portion of the city affected by the area to be changed be enhanced?

The general welfare of this part of the city is not likely to be affected greatly by the requested zoning change. With that said, however, if a change to C-1 would lead to the site being developed, it could be used to provide additional services to Kennedale residents, which could improve the general welfare of this portion of the city. In addition, development of the property will generate an increase in property tax revenue from the site.

(2) Is the property unusable for the purposes allowed under existing zoning?

On paper, the property appears to be suitable for the purposes allowed under existing zoning. In reality, however, various characteristics of the property, including its size and restricted access, have made it difficult for the property's broker to find a business willing to develop the property. As a result, this property has remained undeveloped while the other pad sites at this location have been developed with businesses in operation for several years. A change in zoning to C-1 would allow for a wider range of uses, which would make the site more useable, despite its limitations.

Staff recommends approving the rezoning request.

IV. Fiscal Impact Summary:

If the property is rezoned, the rezoning applicant will develop the site, and this will generate an increase in property tax revenues.

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Ordinance Amending Ordinance No. 40, As Amended	Oridnance PZ 11-10.doc
2.	Exhibit A	PZ 11-10 exhibit A.pdf

CITY OF KENNEDALE
ORDINANCE NO. ___

AN ORDINANCE AMENDING ORDINANCE NO. 40, AS AMENDED, THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF KENNEDALE; BY CHANGING THE ZONING CLASSIFICATION OF CERTAIN PROPERTY WITHIN THE CITY OF KENNEDALE, BEING APPROXIMATELY 1.014 ACRES ENCOMPASSING SOUTHWEST CROSSING ADDITION BLOCK 1R LOT 2; FROM "C-0" RETAIL COMMERCIAL DISTRICT TO "C-1" RESTRICTED COMMERCIAL DISTRICT; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING MAP TO REFLECT SUCH CHANGES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kennedale, Texas is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution and Chapter 9 of the Local Government;

WHEREAS, pursuant to Chapter 211 of the Local Government Code, the City has adopted a comprehensive zoning ordinance and map regulating the location and use of buildings, other structures and land for business, industrial, residential or other purposes, for the purpose of promoting the public health, safety, morals and general welfare, all in accordance with a comprehensive plan; and

WHEREAS, a change in the zoning classification of the property listed below was requested by a person or entity having a proprietary interest in said property; and

WHEREAS, a public hearing was duly held by the Planning and Zoning Commission of the City of Kennedale on October 20, 2011 and by the City Council of the City of Kennedale on November 17, 2011, with respect to the zoning change described herein; and

WHEREAS, all requirements of law dealing with notice to other property owners, publication and all procedural requirements have been complied with in accordance with Chapter 211 of the Local Government Code; and

WHEREAS, the City of Kennedale, Texas does hereby deem it advisable and in the public interest to amend Ordinance No. 40, as amended, as described herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE, TEXAS:

SECTION 1.

Ordinance No. 40, as amended, is hereby amended so that the permitted uses in the hereinafter described area shall be altered, changed and amended as shown and described below:

> Approximately 1.014 acres, being described as Southwest Crossing Addition Block 1R Lot 2, Tarrant County, Texas, on the illustration attached hereto as

Exhibit “A” and incorporated herein for all purposes of this ordinance, is hereby rezoned from “C-0” Retail Commercial District to “C-1” Restricted Commercial District.

SECTION 2.

The zoning districts and boundaries as herein established have been made in accordance with the comprehensive plan for the purpose of promoting the health, safety, morals, and general welfare of the community. They have been designed to lessen congestion in the streets, to secure safety from fire, panic, flood and other dangers, to provide adequate light and air, to prevent overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provisions of transportation, water, sewerage, parks and other public requirements. They have been made after a full and complete hearing with reasonable consideration among other things of the character of the district and its peculiar suitability for the particular uses allowed and with a view of conserving the value of the buildings and encouraging the most appropriate use of land throughout the community.

SECTION 3.

The City Secretary is hereby directed to amend the official zoning map to reflect the changes in classifications approved herein.

SECTION 4.

The use of the property hereinabove described shall be subject to all the applicable regulations contained in the Comprehensive Zoning Ordinance and all other applicable and pertinent ordinances of the City of Kennedale, Texas.

SECTION 5.

This Ordinance shall be cumulative of Ordinance No. 40, as amended, and all other Ordinances of the City of Kennedale affecting zoning and land use, and shall not repeal any of the provisions of such ordinances except in those instances where provisions of such ordinances are in direct conflict with the provisions of this ordinance.

SECTION 6.

All rights or remedies of the City of Kennedale, Texas are expressly saved as to any and all violations of Ordinance No. 40 or of any amendments thereto that have accrued at the time of the effective date of this Ordinance and as to such accrued violations and all pending litigation, both civil and criminal, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the Courts.

SECTION 7.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 8.

This ordinance shall be in full force and effect from and after its passage and it is so ordained.

PASSED AND APPROVED this **17th** day of **November 2011**.

____
Mayor, Bryan Lankhorst

ATTEST:

____
City Secretary

APPROVED AS TO FORM AND LEGALITY:

____
City Attorney

Exhibit "A": PZ 11-10

Rezoning Requested

Property boundary data from the Tarrant Appraisal District

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Staff Report to the Honorable Mayor and City Council

Date: November 17, 2011

Agenda Item No: REGULAR ITEMS - B.

I. Subject:

Discuss and consider AN ORDINANCE OF THE CITY OF KENNEDALE, TEXAS AMENDING CHAPTER 11 "LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS", ARTICLE V "AMUSEMENT HALLS", BY ADOPTING REGULATIONS FOR AMUSEMENT MACHINE ESTABLISHMENTS.

II. Originated by:

James Cowey, Director of Development Services

III. Summary:

City staff has made contact with the different business that were operating amusement machines to make them aware of this ordinance and request compliance with City ordinance. In doing this it was determined that the establishments in question did not meet the definition of amusement machine establishment due to the area that was being used for these machines was less than 25%.

We are recommending change the definition of an amusement establishment to any business that operates one or more machines instead of by floor area.

We are also recommending that the Development staff replace the City Secretary in administration of this ordinance since we work with the businesses already in Certificates of Occupancy, business licenses, etc. and the ordinance relates to a property use.

All other aspects of the ordinance will stay as is.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Amusement ordinance	Amusement machine ordinance.docx

ORDINANCE NO. 391

AN ORDINANCE OF THE CITY OF KENNEDALE, TEXAS AMENDING CHAPTER 11 "LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS", ARTICLE V "AMUSEMENT HALLS", BY ADOPTING REGULATIONS FOR AMUSEMENT MACHINE ESTABLISHMENTS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kennedale is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council of the City of Kennedale has previously adopted regulations regarding amusement halls; and

WHEREAS, the City Council deems it advisable and in the public interest to amend the regulations for amusement machines and amusement machine establishments.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KENNEDALE, TEXAS:

SECTION 1.

Chapter 11 "Licenses, Taxation and Miscellaneous Business Regulations", Article V "Amusement Halls", is amended to read as follow:

ARTICLE V. AMUSEMENT MACHINE ESTABLISHMENTS

DIVISION 1. DEFINITIONS

Sec. 11-106. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amusementmachine means a machine or device operated by orwith a coin orother United States currency, metal slug, token, electronic card, or check, that dispenses or is used or capable of being used to dispense or afford amusement, skill, or pleasure or is operated for any purpose other than for dispensing only merchandise, music, or service. The term does not include:
(a) musical devices;
(b) billiard tables;
(c) machines designed exclusively for children;
(d) devices designed to train persons in athletic skills, including golf, tennis, baseball, archery, or other similar sports.
Amusementmachineestsblishment means a business in which at least twenty-five percent (25%) of the useable floor space open to the public is devoted to provides floor space for more one or more amusement machines
that are used, or capable of being used or operated, for amusement, pleasure or skill.
Secs. 11-107 -11-125. Reserved.
DIVISION 2. PERMITS
Sec. 11-126. Permit required.
(a) Except as provided in subsection (b) below, it shall be unlawful for any person, individually or in association with others, to operate an amusement machine establishment without having a valid, current annual permit issued by the city and without having a valid, current decal issued by the city for each amusement machine being displayed or operated in the establishment.
(b) The permitting and regulating provisions of this article do not apply to:
(1) Amusement machines kept in private residences or apartments and used without charge by members of the family or bona fide guests;
(2) Amusement machines provided on the premises of religious, charitable, educational, or fraternal organizations for the use of members or their guests, and not for private profit, although a charge is made for playing;
(3) Amusement machines provided on the premises of bona fide clubs or social organizations, not operated for private profit although a charge is made for playing, which provide other membership privileges and activities usual in bona fide private clubs organized for the promotion of some common object and whose members must be individually

passed upon and elected as members by a committee or board made
up of members of the club and its affairs and management shall be
conducted by a board of directors, executive committee or similar
body chosen by the members at their annual meetings; or
(4) Amusement machines provided on the premises of publicly owned
facilities.

Sec. 11-127. Permit fees.

(a) The annual permit fee for each amusement machine establishment that
displays four or fewer amusement machines shall be $100.00.

(b) The annual permit fee for each amusement machine establishment that
displays five or more amusement machines shall be $300.00.

(c) No permit shall be issued until the applicant has paid the required permit fee.

Sec. 11-128. Applications.

(a) A person desiring a permit to operate an amusement machine establishment
shall file a written application with the city secretary. The application must be
on a form provided by the city secretary and include the following information:

(1) The full name, home address, and home telephone number of the
applicant.

(2) All of the following business information that applies:

a. The business trade name and a general description of the
business and the address and phone number of the business;

b. If the applicant is a limited partnership, a certified copy of the
certificate of limited partnership;

c. If the applicant is a corporation, a certified copy of the articles
of incorporation and, for an out-of-state corporation, the
certificate of authority to do business in the state;

d. The name and address of all partners or shareholders with 20
percent or greater interest in the business; and

e. The federal tax identification number of the organization for
which the person works or with which the person is affiliated.

(3) The physical location and street address where the establishment will
be operated.
(4) The total number of amusement machines that will be located and
available for use in the establishment.
(5) A complete description of all amusement machines that will be located
in the establishment, including without limitation the name or type of
the machine, the serial number of the machine, and every owner of
the machine (if different from the applicant).
(6) The total floor area of the establishment, and the total floor area of
that portion of the establishment that is to be open to customers or
patrons for the use or operation of amusement machines.
(7) If the applicant has been convicted of any crime directly related to an
amusement machine establishment, the date, location, and nature of
the offense and the penalty received.
(8) Such other and additional information as the city secretary may deem
necessary to assure that the applicant meets the requirements of this
article.
(b) Applications for all permits shall contain the statements that:
(1) "I understand that the permit applied for shall be subject to all the
provisions and regulations of the Kennedale City Code and all other
ordinances of the city and laws of the state, and I certify that I and all
of my employees, agents, and operators will comply with said
ordinances and laws"; and
(2) "I certify that none of the amusement machines to be placed on the
premises will be operated in a way that constitutes an illegal lottery,
including an "eight-liner" orothersuch machine forwhich cash, prizes,
or coupons are awarded, and that none of the machines is an illegal
gambling device as defined by Section 47.01(4) of the Texas Penal
Code, as amended."
(c) The application shall be signed and sworn to by the applicant before a notary
public.
Sec. 11-129. Issuance of permit and decal; nonassignability.
(a) The city secretary Director of Development or other designee shall issue a permit after the city
secretary Director of Development or other designee has completed
the necessary investigation and determined that the applicant meets the
requirements of and has fully complied with this article and with all other

ordinances and laws of the city and state. Permits shall be deemed personal
to the permittee and shall not be assignable or transferable from one person
to another or one location or place of business to another.
(b) Upon issuance of a permit under subsection (a) above, the city secretary Director of Development or other designeeshall issue a decal for every amusement machine located in a permitted
amusement machine establishment that is listed on the permit.
(1) Every amusement machine in an amusement machine establishment
shall contain a decal. The decal for each amusement machine is
deemed personal to the machine and location for which it is issued.
No decal attached to an amusement machine shall be placed on
another amusement machine. No amusement machine may be
moved to another business location or business establishment in the
city without first amending the permittee's application and obtaining a
new decal for the machine.
(2) Before replacing an amusementmachine(s) oradding an amusement
machine(s) to an establishment, the permittee shall amend the
application with the city secretary Director of Development or other designee to update and reflect
accurately theinformation required pursuant to subsection 11-128(a)(5). Upon
amendment of the application, the city secretary shall issue a decal(s)
for the replacement or additional amusement machine(s). If the total
number of permitted amusement machines has changed, the city
secretary Director of Development or other designee shall also issue an amendment to the permit
specifying therevised number of amusement machines allowed in the establishment
and the date of such amendment.
Sec. 11-130. Duration of permit; decal.
The permit shall be valid from the date of issuance until December 31 of the year the permit
was issued. The decal shall be valid until the amusement machine is moved from the
location for which it is issued.
Sec. 11-131. Posting of permit.
(a) The permit shall state on its face to whom it is issued, the date it will expire,
the address and location of the establishment, and the type of establishment
authorized to be operated. The permit shall be signed and sealed by the city
secretary. A permittee, while engaged in the operation of business, shall
have the permit posted in a conspicuous place at or near the entrance and
in such a place and position that it is easy to read at any time of day or night.
(b) In addition to the information contained on a permit pursuant to subsection
(a), a permit for an amusement machine establishment must also state on its

face the total number of amusement machines allowed in the establishment
and the serial number and decal number of each amusement machine.

Sec. 11-132. Permit denial.

(a) The city secretary Director of Development or other designee shall deny an application for a permit if the city secretary Director of Development or other designee finds any of the following:

(1) -The applicant failed to furnish the city with all information required by section 11-128;

(2) The applicant has ever been convicted:

a. Of any felony or class A or B misdemeanor directly related to gambling, theft from a customer of a business owned or operated by the applicant, or any other crime directly related to the applicant's operation of an amusement machine establishment; or

b. Within the five years before applying for the permit, of any class C misdemeanor directly related to gambling, theft from a customer of a business owned or operated by the applicant, or any other crime directly related to the applicant's operation of an amusement machine establishment; or

(3) Evidence that the applicant does not meet the requirements of this article or any other ordinances or laws of the city or state.

(b) The city secretary Director of Development or other designee shall note the reasons for denial on the application and shall notify the applicant of the denial by mailing notice to the applicant at the address shown on the application.

Sec. 11-133. Permit revocation.

(a) The city secretary Director of Development or other designee shall revoke a permit if it is determined that:

(1) The establishment is not being operated in accordance with this article or with any ordinances or laws of the city or state;

(2) Any statement made in the application is untrue;

(3) The applicant has ever been convicted:

a. Of any felony or class A or B misdemeanor directly related to gambling, theft from a customer of a business owned or operated by the applicant, or any other crime directly related to

the applicant's operation of an amusement machine
establishment;
b. Within the five years before applying for the permit of any class
C misdemeanor directly related to gambling, theft from a
customer of a business owned or operated by the applicant, or
any other crime directly related to the applicant's operation of
an amusement machine establishment;
(4) The applicant falsely certified to the statements required by
subsection 62-8(b); or
(5) The applicant displayed or operated an amusement machine that did
not have a decal or was not listed on the permit for the amusement
machine establishment.
Sec. 11-134. Appeal from denial or revocation of permit.
(a) The city secretary Director of Development or other designee shall give written notice of the reason for denial or
revocation of a permit by mailing notice to the applicant at the address shown
on the application for the permit.
(b) To contest the denial or revocation, the applicant may file with the city
secretary, Director of Development or other designee within ten days after the city secretary Director of Development or other designee mails notice of denial or
revocation, a written appeal for a hearing before the city council.
(1) A denial is final and effective on the day the city secretary denies the
permit.
(2) A revocation is final and effective 11 days after the city secretary Director of Development or other designee mailsthe notice of the revocation, unless the applicant appeals the
revocation as prescribed by this section, in which case the revocation
is stayed until the city council makes a final determination.
(c) After an appeal is filed, the city secretary Director of Development or other designee shall provide the city council with
a record of all proceedings conducted with regard to the application for a
permit, including the written application, the action of the city secretary, and
the reasons for such action. The city secretary s Director of Development or other designee hall provide to the applicant
a copy of this information at least 24 hours before the hearing, if the applicant
requests such information in writing.
(d) The city council must hold a hearing on the appeal of the denial or revocation
of a permit within 30 days after the date of filing of the appeal, unless the
appellantwaives in writing the right to a hearing within 30 days. The decision
of the city council shall be final and conclusive as to all parties.

Secs. 11-135 -11-150. Reserved.

DIVISION 3. GENERALLY

Sec. 11-151. Hours of Operation.

(a) Except as provided in subsections (b) or (c) of this section, no amusement machine establishment may be operated between the hours of 12:01 a.m. to 9:00 a.m., seven days a week.

(b) No amusement machine establishment that is within 500 feet of a district restricted to residential use under the Comprehensive Zoning Ordinance of the City of Kennedale, may be operated between the hours of 11:00 p.m., Sunday through Thursday, and 9:00 a.m. the following day, or between the hours of 12:01 a.m. to 9:00 a.m. on Saturday and Sunday.

(c) No amusement machine establishment that is within 500 feet of a public or private elementary or secondary school, may be operated between the hours of 9:00 a.m. to 4:00 p.m. Monday through Friday during the fall or spring term when students are required to attend school in the school district in which the center is located.

(d) For purposes of this section, measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest entry door in the portion of the building used as an amusement machine establishment to the nearest point of a district restricted to residential use or nearest entry door of a school.

Secs. 11-152 -11-170. Reserved.

DIVISION 4. ENFORCEMENT

Sec. 11-171. inspections.

Any amusement machine establishment within the city shall be subject to inspection by authorized city personnel including but not limited to a police officer, the city secretary, the building official and the fire marshal or their authorized agents. Director of Development or other designee

Sec. 11-172. Violation.

(a) It shall be a violation of this article for any person to:

(1) Display any machine or device of any kind or character that is prohibited by this article or by any other ordinances or laws of the city or state;

(2) Operate any amusement machine or amusement machine
establishment that does not meet the requirements of this article and
any other ordinances or laws of the city or state; or
(3) Permit any of the following activities at an amusement machine
establishment:
a. violation of any possession, sale, or delivery in Subchapter 4
of the Texas Controlled Substances Act;
b. violation of any provision in Article 666-17(14) of the Texas
Liquor Control Act;
c. prostitution;
d. gambling;
e. entry of a person younger than 17 years between the hours of
9:00 a.m. to 4:00 p.m. during the fall or spring term when
students are required to attend school in the school district in
which the amusement machine establishment is located; or
violation of Section 42.01 of the Penal Code.
(b) Any permittee who operates an amusement machine establishment or any
person who manages or controls an amusement machine establishment shall
be responsible for violations of this article.
Sec. 11-173. Penalties.
(a) In case of any willful violation of any of the terms and provisions of this
article, the city may institute any appropriate action or proceedings in a court
of appropriate jurisdiction to restrain, correct, or abate such violation. For
violations of this article, the city may also invoke civil remedies provided by
the laws of the state, which shall be cumulative and subject to prosecutions
prescribed for such violations.
(b) A fine not to exceed $500.00 shall be levied against any person upon
conviction of any violation of any provision of this article. Each day shall
constitute a separate offense.
SECTION 2.
This ordinance shall be cumulative of all provisions of ordinances and of the Code
of Ordinances of the City of Kennedale, as amended, except where the provisions of this

ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 3.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Five Hundred Dollars ($500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 5.

All rights and remedies of the City of Haltom City City of Kennedale are expressly saved as to any and all violations of the provisions of any ordinances governing zoning that have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 6.

The City Secretary of the City of Kennedale is hereby directed to publish the caption, penalty clause, publication clause and effective date of this Ordinance as required by Section 3.10 of the Charter of the City of Kennedale.

SECTION 7.

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

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Staff Report to the Honorable Mayor and City Council

Date: November 17, 2011

Agenda Item No: REGULAR ITEMS - C.

I. Subject:

Discuss and consider a Resolution casting votes for the election of Tarrant Appraisal Board Members for the 2012 - 2014 term.

II. Originated by:

Bob Hart, City Manager

III. Summary:

Please see that attached information. Information for all candidates was not available.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	Candidate Information	TAD Bios.pdf
2.	TAD	Resolution XXX - TAD Elections.doc

John Fegan
CCIM, CPM
1303 Bellefonte LN
Colleyville, TX 76034

Phone 817-966-6626
johnfegan@aol.com

October 8, 2009

Subject; Resume

Per your request a resume and qualifications of Dennis (John) Fegan II.

PERSONAL BIO

I was born November 21, 1954 and presently live (15 years) in Colleyville, TX. I have been married for 26 years to Nancy and have 5 sons. Two of my sons have graduated from Grapevine High School

I am a graduate of Eastern Hills High School (Fort Worth) 1973 and Texas Christian University (TCU) 1978 and have lived in Tarrant County area for 54 years. I am the President and Owner of Compass Realty, LP and have been in the real estate business since 1987.

In the past three years I have been involved in residential land development in Southlake, Colleyville, North Richland Hills and Weatherford. Also, I have built several office buildings in Colleyville and North Richland Hills.

I hold the CPM designation and I have been elected as the President of the Fort Worth Chapter of IREM for the year 2005 and 2006
I also hold the CCIM designation and I am a member of the Dallas Chapter of CCIM.
I am an Advisory Board member of Northstar Bank (Colleyville and Grapevine)
I am on the Advisory board for Apartment Life Ministries
I served on the Board of Trustees at Faith Christian School 7 years
I have served on the Board of Colleyville Basketball Association.
I have served on several Boards of Trustees for Condominium Associations, Fort Worth and Galveston.
I am a board member of Student Standing Strong - a non-profit student leadership group
I am the Secretary (board member) of the Caldwell Creek Subdivision, Colleyville

MEMEBERSHIPS

TAR	Texas Association of Realtor
NAR	National Association of Realtors
NTCAR	North Texas Commercial Association of Realtors
IREM	Institute of Real Estate Management
	Secretary of the Fort Worth Chapter 2004
CCIM	Certified Commercial Investment Member
CIB	Commercial Investment Brokers

If you need any more information please call 817-966-6626 or email johnfegan@aol.com.

Sincerely,

John Fegan, CCIM, CPM

RESUME
OF
JOHN MOLYNEAUX

PERSONAL DATA:

HOME ADDRESS: 4008 TAMWORTH
FORT WORTH, TEXAS 76116
817-737-5443

BUSINESS ADDRESS: BRANTS REALTORS
4541 BELLAIRE DRIVE
FORT WORTH, TEXAS 76109
817-731-8466

EDUCATION:

LOCAL: MARY LOUISE PHILLIPS E. S., MONNIG JR. H.S., AND ARLINGTON HEIGHTS HIGH SCHOOL.

OTHER: NEW MEXICO MILITARY INSTITUTE, ROSWELL, N.M.
AUSTIN COLLEGE WITH A B. A.
TEXAS CHRISTIAN UNIVERSITY

PROFESSIONAL: REAL ESTATE SALES AND BROKER LICENSES

CIVIC ACTIVITIES:

.MEMBER OF THE ROTARY CLUB OF WESTERN FORT WORTH SINCE 1981.
 PAST PRESIDENT
 ASSIST. DIST. GOVERNOR
 ROTARIAN OF THE YEAR(TWICE)
.MEMBER OF THE BOARD OF DIRECTOR FOR THE BOY'S AND GIRL'S CLUB OF TARRANT COUNTY SINCE 1997.
 SERVED ON THE EXECUTIVE BOARD
.MEMBER OF THE TCU FROG CLUB BOARD OF DIRECTORS SINCE 1999 AND SERVED ON THEIR EXCUTIVE COMMITTEE.

.TRUSTEE FOR THE MOLYNEAUX CHARITABLE FOUNDATION.
.HELP UNDERWRITE A TEACHING CHAIR FOR THE FTW ISD.
.MEMBER OF THE FORT WORTH CHAMBER OF COMMERCE.
SISTER CITIES, FORMER MEMBER
.SERVED ON THE CITY OF FORT WORTH BUILDING STANDARDS COMMISSION FOR 8 YEARS.
 LAST 2YEARS SERVED AS CHAIRMAN.
.BOARD MEMBER AND FORMER CHAIRMAN OF *HIT THE BRICK 5K* RACE FOR CHARITY.
.SERVE ON ARLINGTON HEIGHTS H.S. 'S SITE BASE MANAGEMENT TEAM AS A COMMUNITY MEMBER.

.Have been on the Site Base for over ten year
.Have served on Tarrant Appraisal District Board of
.Directors since 2002.

Business Activities:

. Current member of the Greater Fort Worth
Association of Realtors.
Past President of GFWAR. 2000-2001
Realtor of the Year for 2002
Member of both NAR and TAR.
Am active at both the State and National
levels.
Am active on various committees at GFWAR and
at the State level.

Joe A. Potthoff
6709 Gascony Place
Fort Worth, TX 76132
817. 456.3347

Since graduating with high honors in 1973 and earning a Bachelors of Science in Architecture, Joe Potthoff has worked extensively in physical, social and economic planning. He was a charter member of the American Institute of Certified Planners, worked in the early stages of developing strategic planning methods, and pioneered the integration of strategic planning with future studies. Mr. Potthoff has studied planning issues internationally, traveling to Asia and Europe through Rotary International's Group Study Exchange.

Mr. Potthoff is currently President of Hill Gilstrap, Potthoff & McGinnis (HGPM), a consulting firm organized to identify investment opportunities, obtain economic development incentives, secure entitlements, and provide a wide range of services and expertise to business clients. He has extensive experience as a planner, facilitator, and creative strategist. Additionally, he owns and manages his own real estate and investments. His experience includes the private, public, and non-profit sectors with an emphasis in real estate, zoning, land use, government regulation, risk management, expert witnessing, market analysis, site design, economic development, future studies, and governmental relations.

After working as a designer in architecture, Mr. Potthoff spent the next twelve years of his career in city planning. During this time in the public sector, he administered the subdivision of more than 10,000 lots and 1,000 rezone requests. His responsibilities also included comprehensive and environmental planning, code enforcement and development review.

Before opening his first consulting firm, Mr. Potthoff spent seven years as Director of Planning for the cities of Arlington, Texas and Bellevue, Washington. As President of Betzel-Potthoff, Inc., he spent the next thirteen years providing and managing a wide variety of consulting services centered around business and strategic planning and problem solving. Examples of consulting work successfully completed during this period include: analyzing governmental regulatory actions; managing project teams; and producing business plans, investment strategies and feasibility/marketing studies.

Within the volunteer sector, Mr. Potthoff has served on numerous boards of community organizations. Since 1992, he has been an active member of the Tarrant Appraisal District's board of directors, serving as Chairman of the Tarrant Appraisal District for the last eight years. Mr. Potthoff has also served on the boards of a Chamber of Commerce, the River Legacy Foundation and a One Stop Career Center. Additionally, he co-chaired a Mayor's Task Force on Drugs and Crime and served on the Tarrant 2000 Task Force.

Mr. Potthoff is a past member and Paul Harris Fellow of Rotary International, serving two years as the chairman of Rotary District 579's Group Study Exchange. He is also a member of Alpha Chi (honorary academic fraternity); and a past member of the World Future Society, MENSA, the Institute of Urban Design, and the International Downtown Executives Association. He has guest lectured at the University of Texas at Arlington's graduate school in the departments of Architecture and the Institute of Urban Studies. Additionally, Mr. Potthoff has served as an instructor in crisis management and media relations for member cities of the North Central Texas Council of Governments.

Minister of Education

Rev. Michael D. Glaspie Sr.

Rev. Michael D. Glaspie serves as Minister of Education He is married to Sis. Janice Glaspie and they have three children, Tamara, Michael Jr. and Marcus. The Glaspie's live in Arlington, Texas.

Rev. Glaspie was born in Marshall, Texas. He joined the Mount Olive Baptist Church in June, 1982. In March, 1985, he accepted his calling as a minister of the Gospel.

Since 1986, Rev. Glaspie has been involved in the ministries of the Sunday School Teachers, Evangelism and became Minister of Education in the early 1990's.

Rev. Glaspie graduated from the University of Texas at Austin receiving a BA and MBA from that university. He has also studied at Southern Bible Institute and the Dallas Baptist University.

In addition to his basic responsibilities associated with the education area, such as MOBI, Sunday School, and educational seminars, Rev. Glaspie's focal areas are with Arlington New Beginnings, community involvement and the New Members Welcoming committee. He has received recognition and awards for his involvement with the Arlington Independent School District and other community organizations and business entities.

Michael Glaspie

Minister of Christian Education and Missions at Mount Olive Baptist Church and also serves at the Executive Director of Metro Charter Academy. He has served as a member of the Arlington ISD Board of Trustees since 1991. He has a BA in Mathematics and an MBA from the University of Texas at Austin. He has done work on a Masters of Biblical Studies at Dallas Baptist University. Mr. Glaspie retired from IBM after a twenty-one year career in marketing and marketing management of information technology systems and solutions. He and his wife, Janice, have three children, a daughter and two sons, who are benefiting from the excellent education they received from the AISD.

Mary McCoy

From: Arturo Camacho [acamacho@haltomcitytx.com]
Sent: Wednesday, October 19, 2011 11:24 AM
To: Mary McCoy
Subject: David Averitt bio information

Ms. Mcoy,

I have additional bio information regarding David Averitt, a nomination on the TAD Directors Election, from our 10/10/11 Resolution submitted to you last week.

Elected to Council Place 5: May 2010

Served on Haltom City Council 1993-95 and 2000-04•

Past member of Haltom City Finance Audit Committee., Haltom City Beautification Bd., Park• & Rec Bd., Library Bd., Economic Development Corporation, Graduate of the Citizens Fire Academy,

Current Member of the Birdville Education Foundation•

Past Council Liaison to Haltom City Planning• & Zoning Commission

Past Member Haltom City Bond Study Committee•

Past Council Liaison to the Haltom City Housing Authority•

Thanks,
Art

Art Camacho, TRMC
P.O. Box 14246
5024 Broadway Avenue
Haltom City, TX 76117
817-222-7749 (Office)
817-834-7237 (fax)
acamacho@haltomcitytx.com

RESOLUTION NO. XXX

WHEREAS, the City of Kennedale is entitled to cast seven (7) votes collectively or separately for nominees for the Board of Tarrant Appraisal District;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THECITY OF KENNEDALE, TEXAS:

Section 1: That the City of Kennedale hereby resolves and order that case and does hereby cast its votes as follows:

______ votes for David Averitt
______ votes for Roger Chavez
______ votes for John Fegan
______ votes for Michael Glaspie
______ votes for John Molyneaux
______ votes for Joe Potthoff

____

AND IT IS SO RESOLVED.

PASSED by a vote of ____ to ____ on this the 17th day of November, 2011.

APPROVED:

____
Bryan Lankhorst, Mayor

ATTEST:

____
Amethyst G. Cirmo
City Secretary

Approved as to form and legality:

CITY SEAL

____
Wayne K. Olson, City Attorney

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Staff Report to the Honorable Mayor and City Council

Date: November 17, 2011

Agenda Item No: REGULAR ITEMS - D.

I. Subject:

Discuss and consider action to approve KKB recommendation to move Wayne Wooten from Place 1 on the Keep Kennedale Beautiful Commission to Alternate Place 8.

II. Originated by:

Kelly Cooper, Director of Human Resources

III. Summary:

Since increasing the Board size in July 2011, Wayne Wooten has not been able to attend meetings due to current personal commitments. He has subsequently requested that he be moved to an alternate board member status, which will keep him informed and involved to the extent possible until his commitments change providing more freedom for participation.

Wayne has been instrumental and highly active on the Keep Kennedale Beautiful Commission since its inception in 2009. He participated as Chair until July 2011 and was an integral part in the Strategic Planning process, fund raising and reaching the affiliate status with Keep Texas Beautiful.

The Keep Kennedale Beautiful Commission has reviewed his request and unanimously recommends City Council approve this action. The Commission hopes that Wayne will be able to more actively participate on this board in future years.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

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Staff Report to the Honorable Mayor and City Council

Date: November 17, 2011

Agenda Item No: REGULAR ITEMS - E.

I. Subject:

Discuss and consider appointing Stephen Brim and Fred Winters to the Keep Kennedale Beautiful Commission.

II. Originated by:

Amethyst G. Cirmo, City Secretary and Communications Coordinator

III. Summary:

KKB has recommended that Stephem Brim be placed in this currently vacant seat.

If the Council has chosen to move Wayne Wooten to an alternate position, they may also choose to appoint one of these applicants to Regular Place 1 and the other to Alternate Place 9.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

Approve

VII. Alternative Actions:

VIII. Attachments:

1.	application	Stephem Brim - KKB.pdf
2.	application 2	Fred Winters - KKB.pdf

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405 Municipal Drive, Kennedale, Texas 76060

BOARD/COMMISSION CANDIDATE
DATA SHEET

Check all Board and Commissions of Interest and rank order of interest from 1 to 8:

- [ ] Park Board
- [ ] Planning & Zoning
- [ ] Library Advisory Board
- [x] Keep Kennedale Beautiful
- [ ] Comprehensive Plan Task Force
- [ ] Board of Adjustment
- [ ] Building Board of Appeals
- [ ] Economic Development Board
- [ ] Culture & Arts Board

Name: STEPHEN BRIM Age (Optional): ______

Home Address: 710 SHADY CREEK DR

Home Phone: ______ Business/Cell Phone: 214 676 2180

Email: STEPHEN BRIM@ DEOTTE-ENG.COM Alt. Contact: ______

Resident of City for 1 Years Voter Registration No: ?

Occupation: CIVIL ENGINEER

Education: BS - UTA

Special Knowledge or Experience Applicable to City Board or Commission Function:

- [ ] Banking/Finance
- [x] Building/Construction
- [x] Real Estate/Development
- [ ] Industrial Training
- [ ] Business Development
- [ ] Promotion/Marketing
- [ ] Manufacturing/Industrial Operations
- [ ] Law/Contract Administration

Other information (Civic Activities, etc.): PARKS & REC BOARD AT [illegible]

I have attended one or more meetings of the board or commission for which I have applied: [x] Yes [x] No

Date: OCT 14 2014 Signature: [signature]

RETURN COMPLETED FORM TO THE CITY SECRETARY'S OFFICE,
City of Kennedale, 405 Municipal Drive, Kennedale, Texas 76060
Phone: (817) 985-2104 - E-mail: acirmo@cityofkennedale.com

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405 Municipal Drive, Kennedale, Texas 76060

BOARD/COMMISSION CANDIDATE DATA SHEET

Check all Board and Commissions of Interest and rank order of interest from 1 to 8:

- [ ] Park Board
- [ ] Planning & Zoning
- [ ] Library Advisory Board
- [x] Keep Kennedale Beautiful
- [ ] Comprehensive Plan Task Force
- [ ] Board of Adjustment
- [ ] Building Board of Appeals
- [ ] Economic Development Board
- [ ] Culture & Arts Board

Name: Frederick Winters Age (Optional): 58

Home Address: 101 N. Spiller St. Kennedale, Tx 76060

Home Phone: 817-789 2527 Business/Cell Phone: Same

Email: — Alt. Contact: 817-483-1505

Resident of City for 30 Years Voter Registration No:

Occupation: Unemployed

Education: 4 years Metropolitan State, Denver, Co.

Special Knowledge or Experience Applicable to City Board or Commission Function:

- [ ] Banking/Finance
- [x] Building/Construction
- [ ] Real Estate/Development
- [ ] Industrial Training
- [ ] Business Development
- [ ] Promotion/Marketing
- [ ] Manufacturing/Industrial Operations
- [ ] Law/Contract Administration

Other information (Civic Activities, etc.): Sonora Park, October 8 2011
Community servant 2007-2011: church, citizens

I have attended one or more meetings of the board or commission for which I have applied: [x] Yes [ ] No

Date: October 11, 2011 Signature: Frederick W. Winters

RETURN COMPLETED FORM TO THE CITY SECRETARY'S OFFICE,
City of Kennedale, 405 Municipal Drive, Kennedale, Texas 76060
Phone: (817) 985-2104 - E-mail: acirmo@cityofkennedale.com

Staff Report to the Honorable Mayor and City Council

Date: November 17, 2011

Agenda Item No: EXECUTIVE SESSION - A.

I. Subject:

The City Council will meet in closed session pursuant to Section 551.071 of the Texas Government Code for consultation with the City Attorney pertaining to any matter in which the duty of the City Attorney under the Texas Disciplinary Rules of Professional Conduct may conflict with the Open Meetings Act, including discussion on any item posted on the agenda and legal issues regarding regulation of sexually oriented businesses, litigation, settlement offers, and/or claims regarding the following matters:

1. H & A Land Corporation, et al. v. City of Kennedale - Cause No. 402-CV-0458-Y (Dreamer's and Showtime)
2. Chesapeake Energy
3. Kennedale vs. H.M. Real Estate Management, Inc.

II. Originated by:

Bob Hart, City Manager

III. Summary:

Bob Hart will present information on these topics during executive session.

IV. Fiscal Impact Summary:

V. Legal Impact:

VI. Recommendation:

None

VII. Alternative Actions:

Any action that is necessary on this topic will be taken once council has reconvened into open session.

VIII. Attachments: