



City of Stevenson
Public Works Department

(509)427-5970

7121 E Loop Road, PO Box 371
Stevenson, Washington 98648

BACKWOODS BREWING INDUSTRIAL DISCHARGE CONTRACT

THIS AGREEMENT is made this _____ day of _____, 2020 by and between BACKWOODS BREWING COMPANY, a Washington Corporation (“Backwoods”) and CITY OF STEVENSON, a Washington municipal corporation ("City"). This agreement is effective as of the last date on which it has been executed by all parties (the “effective date”) and shall be effective through December 31, 2025 or until some or all of the provisions of this agreement may be revised by subsequent agreement of the parties. However, nothing in this agreement shall preclude Backwoods and/or customer from reducing or discontinuing its/their operations on the leased premises. This agreement is non-transferrable.

RECITALS

A. Backwoods operates a craft brewing facility at a leased facility located in the City owned by the Port of Skamania commonly referred to as the Tichenor Building located at 40 SW Cascade Ave also identified as Skamania County Tax Parcel No. 02750622010000 (“the Property”).

B. Backwoods has one connection to the City's sewer system, which is metered and sampled and meets the requirements of SMC 13.08.320 B and C.

C. The parties desire to establish through this agreement a sewer service contract that takes into account Backwoods current operating program as well as its projected program for additional sewage services.

D. This Agreement is intended to comply with the requirements of Chapter 13.08 of the Stevenson Municipal Code (SMC) and is authorized by SMC 13.08.240. Backwoods, as a generator of industrial waste (as defined in the SMC), is obligated to

provide pretreatment of the industrial waste, however in lieu of pretreatment, the City may accept entry into this Agreement and the payments set forth herein as Backwoods is an industrial user of City wastewater treatment services.

E. The City has begun taking multiple composite samples at the wet well located on-site at Backwoods Brewing, for determining strength constituents of biological oxygen demand (“BOD”) and total suspended solids (“TSS”).

TERMS AND CONDITIONS

IN CONSIDERATION of the mutual promises and performance provided in this Agreement, the parties agree as follows:

1. Backwoods ownership of property. Backwoods warrants that it does not own the Property, but as lessee it has the authority and obligation to pay service charges for the Property.

2. Connection charges – Industrial and domestic waste. The City will not charge additional connection charges for this discharger as fees for the connection have been paid based on the size of the water meter for the facility.

3. Flow Meter – Backwoods will periodically calibrate their existing effluent flow meter in accordance with the manufacturer’s recommendations but not less than annually.

4. Discharge flow – Industrial waste. Backwoods shall discharge flow at a monthly average rate not to exceed 3,700 gallons per day with a maximum allowable peak discharge of 13,000 gallons per day provided that the average monthly flow is not violated. Backwoods shall record effluent meter reads daily and submit monthly reports to the City.

5. Discharges over the permitted amount - Flow. For discharge that exceeds the monthly average permitted amount for flow based on effluent meter readings, Backwoods shall pay a liquidated damage charge of one hundred and fifty percent (150%) of the normal high strength user monthly rate in effect for any flow that exceeds the permitted amount.

6. Discharge constituents – Biochemical Oxygen Demand (BOD). Backwoods shall discharge flow at a monthly average concentration not to exceed 3,000 mg/L per day with a maximum allowable peak day concentration of 5,000 mg/L per day provided that the average monthly value is not violated.

7. Discharge BOD charges. Backwoods and the City agree that the City shall invoice and Backwoods will pay for industrial flow based on their annual average testing results as defined in the rate structure policy. Backwoods will be charged based on a consumption factor of 70%. Backwoods will be responsible to administer and pay for sampling at a frequency of 1 test every 2 weeks, during active production or cleanup operations, using a 24-hour time based composite sample with intervals of at least every 15 minutes, according to a Sampling and Analysis Plan prepared by Backwoods and acceptable to the City Public Works Director. The Sampling and Analysis Plan shall specify how and when all samples (BOD, TSS and pH) will be collected and how they'll be analyzed. If test results from a DOE accredited lab are at a level above permitted levels, then Backwoods will pay for 2 tests per week until levels are acceptable. All sample results shall be supplied on a monthly basis to the city in the form of a Discharge Monitoring Report (DMR).

8. Discharges over the permitted amount - BOD. Violations and Penalties. The Parties agree that a violation of discharge in excess of the Base Level Limits and any other violation of the terms of this Agreement shall be considered a violation of the terms of SMC Chapter 13.08 and shall subject Backwoods to the civil penalties provisions of the SMC as set forth in SMC 13.08.932.

9. Discharge constituents – Total Suspended Solids (TSS). Backwoods shall discharge flow at a monthly average concentration not to exceed 600 mg/L per day with a maximum allowable peak day concentration of 1,000 mg/L per day provided that the average monthly value is not violated.

10. Discharge TSS charges. Backwoods will be responsible to administer and pay for sampling at a frequency of 1 test every 2 weeks, during active production or cleanup operations, using a 24-hour time based composite sample with intervals of at least every 15 minutes, according to the Sampling and Analysis Plan described in paragraph 7, above. If test results from a DOE accredited lab are at a level above permitted levels, then Backwoods will pay for 2 tests per week until levels are acceptable. This test may be combined with the BOD sample. All sample results shall be supplied on a monthly basis to the city in the form of a Discharge Monitoring Report (DMR).

11. Discharges over the permitted amount - TSS. – The Parties agree that a violation of discharge in excess of the Base Level Limits and any other violation of the terms of this Agreement shall be considered a violation of the terms of SMC Chapter 13.08 and shall subject Backwoods to the civil penalties provisions of the SMC as set forth in SMC 13.08.932.

12. Discharge constituents – pH. Backwoods shall discharge at a pH range not less than 5.0 or not more than 11.0 at all times.

13. Discharge pH charges. Backwoods will be responsible to administer and pay for sampling at a frequency of 1 test daily, using a grab sample, according to the Sampling and Analysis Plan described in paragraph 7, above. All sample results shall be supplied on a monthly basis to the city in the form of a (DMR).

14. Discharges over the permitted amount - pH. – The Parties agree that a violation of discharge in either lower or higher than the limits and any other violation of the terms of this Agreement shall be considered a violation of the terms of SMC Chapter 13.08 and shall subject Backwoods to the civil penalties provisions of the SMC as set forth in SMC 13.08.932.

15. High Strength Waste Management Plan. Backwoods shall develop and submit for approval a “High Strength Waste Management Plan”, that will detail the methods used for removing and disposing of high strength waste. The plan shall also include either manifests or invoices from haulers and/or disposal facilities detailing the amounts and consistency of materials hauled and/or disposed of. These results shall be supplied on a monthly basis to the city in the form of a (DMR).

16. Reports, Payments and Notices. All reports, payments and notices provided for in this Agreement may be sent by recognized overnight courier, personally delivered, or mailed by first class U.S. mail, postage prepaid, and all reports and notices may further be faxed, or scanned to .pdf format and emailed. The names and addresses to be used in connection with such reports, payments and notices are the following, or such other names and addresses as a party shall from time to time direct:

City of Stevenson
Attn: Leana Kinley
PO Box 371
Stevenson, WA 98648

Backwoods Brewing Company
ATTN: Steve Waters
1162 Wind River Road
Carson, WA 98610

Reports and notices given by fax or scanned to .pdf format and email shall be deemed given upon electronic confirmation of receipt; reports, payments and notices sent by overnight courier shall be deemed given on the date on which delivered; reports, payments and notices personally delivered shall be deemed given upon delivery; and reports, payments and notices sent by U.S. mail shall be rebuttably presumed to have been received two business days after deposit in the mail, postage prepaid, or deemed delivered by certified mail, return receipt requested, on receipt.

16. Binding Effect. This Agreement shall constitute servitude upon the Property, and shall be binding upon the parties, their heirs, representatives, assigns and successors in interest.

17. Amendments. The parties expressly reserve the right to modify this Agreement through a written amendment that is signed by authorized representatives of each party.

18. Remedies Cumulative. Rights under this Agreement are cumulative. The failure to exercise a right shall not operate to forfeit the right on another occasion. The use of a remedy shall not exclude or waive the right to use another.

19. Entire Agreement. This Agreement, including the attached exhibits, contains all of the covenants, promises, agreements, and conditions, either oral or written, between the parties.

20. Termination. The Parties agree that a violation of discharge in excess of the Base Level Limits and any other violation of the terms of this Agreement shall be considered a violation of the terms of SMC Chapter 13.08 and shall subject Backwoods to the civil penalties provisions of the SMC as set forth in SMC 13.08.932. If customer materially fails to comply with any of the provisions of this Agreement, the City may terminate the Agreement upon at least 30 days' prior written notice. If customer corrects the material non-compliance prior to the 30th day following the date of the written notice, the City may not terminate this Agreement. If, as a result of the negligence, misfeasance or intentional act of Customer the same material non-compliance occurs again within the 365 days following its correction, the City may again provide written notice of termination and this Agreement shall terminate on the 30th day following such notice without regard to any corrective actions that may be taken by Customer. Following termination pursuant to this provision, this Agreement shall be terminated and shall have no further force and effect. That termination shall have no effect with respect to penalties for which Customer or the City may be responsible for paying to the DOE or any other government agency with jurisdiction, including generally applicable penalties or remedies provided in the SMC.

21. Department of Ecology Review. This agreement may be subject to the State of Washington Department of Ecology (DOE) review and approval. If the DOE determines that this Agreement should not be approved or suggests modifications to the Agreement, the Parties agree to follow the recommendations of the DOE and modify or terminate this Agreement in accordance with any such recommendations.

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

Backwoods Brewing:

Backwoods Signature

Print Name

Title

STATE OF WASHINGTON)
) ss:
COUNTY OF SKAMANIA)

I certify that I know or have satisfactory evidence that _____
is the person who appeared before me, and said person acknowledged that he signed
this instrument, on oath stated that he was authorized to execute the instrument and
acknowledged it as the _____ of Backwoods Brewing
Company, a Washington corporation, to be the free and voluntary act of such corporation
for the uses and purposes mentioned in the instrument.

Dated _____

NAME: _____
(Print Name)

Notary Public in and for the State of
Washington.

Commission Expires: _____

