



City of Stevenson

Planning Department

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TO: City Council
FROM: Ben Shumaker
DATE: August 7th, 2024
SUBJECT: Sewer/Septic Ordinance – Legal Review

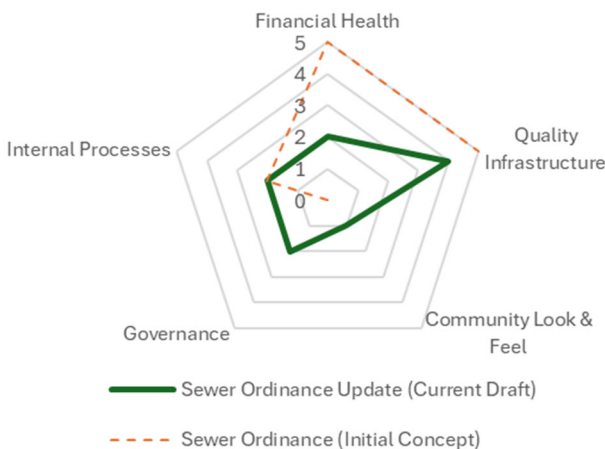
Introduction

On June 15, 2023, city staff initiated discussions to change the sewer connection requirement under SMC 13.08.070 and .120. The change was intended to advance the Council’s strategic priorities related to Financial Health, Quality Infrastructure, and Internal Processes (Community Look & Feel was not an adopted priority in

2023). That proposal aimed to establish a consistent level of service by having development pay to extend the sewer utility to city limits. It was discussed again on August 24th and September 21st, 2023, at council workshops where it was referred to a Sewer Ordinance Committee.

The final report from the Committee was presented to Council on January 18th, 2024, and discussed at the February 15th, March 21st, April 18th. The ordinance was redrafted to incorporate the recommendations of the committee. At the May 16th meeting, the Council authorized a public release draft to enable continued community engagement. The redrafted ordinance continues to advance the strategic priority related to Quality Infrastructure. Modifications address Community Look & Feel and Governance. They do so at the expense of the Financial Health priorities.

City Council Strategic Priorities



Documents, recordings, and minutes from the previous meetings are available online at <https://www.ci.stevenson.wa.us/meetings>.

Further legal analysis of the public release draft has been ongoing and was recently completed. The analysis looked specifically at the stand-by fee drafted as SMC 13.08.072 and SMC 13.08.076’s connection incentive involving waiver of the system development charge (SDC). The City Attorney was asked to a) provide the most current caselaw on these topics and b) prepare to review final drafts to ensure the ordinance is best suited to withstand legal challenges we might receive. If—on the basis of Counsel’s understanding of the situation—he believed the ordinance would be ill-positioned to withstand any legal challenges, the City Attorney was encouraged to share that information so the City Council can make an informed risk-management decision. This memo summarizes the City Attorney’s cautions and asks for guidance on next steps.

The City Council is asked to re-evaluate the draft ordinance presented in May which has been authorized for public review. After discussion, the Council could consider whether to:

- Request alteration of the current draft amendments for future consideration,
- Release (or alter and release) the draft amendment for broader public engagement and input,
- Abandon the amendments and move on to other matters.

City Council deliberations are not expected to include public comments.

Safety Recalls, An Analogy

As presented in the Spring, the policy discussion was compared to a garage full of tools and the City Council's burden of picking the right tools for the job. This discussion will use a similar comparison: the Safety Recall.

Consider the same handy homeowner who had stocked a garage full of tools and carefully picked tools to accomplish a specific repair. On the way inside, the homeowner's phone dinged. An email awaited. The homeowner reads that a tool currently in their belt has been deemed too dangerous for consumers to use. A safety recall is attempting to remove the tools from the marketplace and usage by the public. The homeowner is faced with a choice: squinch under additional personal protective equipment or package the tool up and ship it back to the manufacturer.

As this analogy applies to this policy's development, the City Attorney has notified the City Council of the danger of using two of the tools they previously considered. The City Council must decide whether to heed this caution by removing the stand-by fee and limiting the SDC waiver, or alternatively to continue with the proposal, carefully craft legal arguments and articulate the City's rationale about why its action is not counter to the relevant caselaw.

Public Involvement

Both of the topics addressed by the City Attorney were included in the draft ordinance on the basis of the Sewer Ordinance Committee's recommendations. Broadly, this author characterizes those recommendations as:

- Yes, the sewer system should be extended throughout City limits→
 - The public should fund the extensions; individual property owners should be insulated from large expenses related to the extensions→
 - The public's cost to make the extensions should be broadly shared and also defrayed by grants and other outside money.
 - Some specific types of development need not be insulated from the expense of the extensions.

Implementing the recommendations would involve better aligning the City's rate schedule, capital improvement plans, and regulatory controls. The regulatory controls of the draft ordinance incorporated these recommendations through the imposition of a stand-by fee (broadly sharing extension costs) and waiving the SDC (insulating individuals from large expenses).

Throughout the Committee's deliberations, they were informed that legal analysis was necessary for these more novel provisions. The analysis is now available and summarized below.

Legal Analysis

Stand-By Fee

Some challenges of implementing a stand-by fee were known to the Sewer Ordinance Committee when they made their recommendations. The 2001 Washington Supreme Court case *Samis Land Co. v. City of Soap Lake*, 143 Wash.2d 798 was presented by one of the committee members. Broadly, that case invalidated a fee charged by a city to owners of undeveloped land where sewer was available. The court applied a 3-part test articulated by a previous court in *Covell v. City of Seattle*, 127 Wash.2d 874:

- Is the primary purpose of the legislation to "regulate" the fee payers or to collect revenue to finance broad-based public improvements that cost money?
- Is the money collected from the fees segregated and allocated exclusively to regulating the entity or activity being assessed?
- Does a direct relationship exist between the rate charged and either a service received by the fee payers or a burden to which they contribute?

Failure to provide affirmative answers to each of the test's 3 parts will lead courts to conclude that such charges are a "tax in disguise" or a "tax in fee's clothing". Soap Lake failed that test. Their program was invalidated and they were ordered to refund the appellant.

The program of which the draft ordinance was a part attempted to differentiate Stevenson from Soap Lake by:

- Applying the charge only to parcels 1) adjacent to a sewer line 2) choosing to continue using a septic (aka developed property).
- Articulating the burden such choices have on the public.
- Calculating the fee's amount in a manner directly relating it to the burden placed on the public by that payer's choice.
- Reserving the collected fees for prescribed usage.

The City Attorney reviewed the *Samis* case, along with other decisions by the Washington Supreme Court (*Arborwood Idaho v. City of Kennewick*, 151 Wash.2d 359 (2004), *Holmes Harbor Sewer Dist. V. Holmes Harbor Home Build, LLC*, 155 Wash.2d 858 (2005)), and the Court of Appeals of Washington (*Carrillo v. City of Ocean Shores*, 122 Wash.app. 592 (2004)).

The 2004 *Carrillo* case also addressed a sewer stand-by fee. This case was filed as a class action on behalf of all those to whom the fee had been charged. This author believes Ocean Shores' facts differed substantially from those presented by Soap Lake. They were as—or more—compelling than the facts Stevenson faces. The difference could have compelled a different conclusion from the courts. The Court of Appeals was not compelled. The charge was deemed a tax and not a fee. Those charged were entitled to recover amounts paid, plus interest. The case did not go to the Washington Supreme Court.

The City Attorney concludes his analysis by stating "I would advise the Council not to press the stand by fee at this time as it will result in potential costly litigation."

Fine as an Alternative to Fees

After receiving the City Attorney's recommendation, staff asked for analysis of an alternative way to achieve similar ends. The public release draft ordinance would have provided owners with an option on whether or not to connect and imposed a fee on those choosing not to. In the alternative, the ordinance could have required owners to connect and imposed a fine for those that failed to. Nuances of program implementation would've incorporated staff's understanding of the Sewer Ordinance Committee's intent (E.g. The fine would have been calculated to cover approximately the same costs as the fee; The City would actively (monthly) issue fines; The City would not actively compel connection via court order.)

This alternative is not entirely without precedent. The City of North Bend, Washington has currently enacted similar provisions.

To round out the Council's knowledge, the City Attorney was asked to a) investigate whether there is caselaw related to North Bend's program, b) provide staff with a better understanding of the distinction between fines, fees, and taxes, and c) opine on whether jurisprudence would lead the courts to conclude our alternative program was akin to a "tax in fine's clothing".

No caselaw was found to ascertain whether North Bend's program comports with relevant jurisprudence. The distinctions between fines, fees, and taxes was provided. Some advice and some imperatives were shared about how to craft a system of fines to best withstand challenges. Examples involve setting "reasonable" fine amounts and clearly identifying where our authority to fine is derived. In his conclusion on this discussion, the City Attorney provides similar cautions as he provided in the fee analysis:

“Except for a health or safety measure, I have not found any authority allowing the City to impose a fee, fine or penalty on a landowner who refuses to connect to an existing sewer line. However, I believe if Council were to obligate existing lot owners to connect to available sewer lines, I believe the ordinance would survive constitutional challenge. I do not believe simply fining or charging a fee for NOT connecting when the lot owner is not benefiting from the sewer service would survive constitutional challenge [sic]. If the City is simply seeking to offset the costs of the upgrade, operation and maintenance of the WWTP, I have not identified the legal basis to require such a connection.

However, if the sewer ordinance is to address connections once a septic or OSS fails, I believe the City has such authority and could tie the fine for refusing to connect under those circumstances. The same is true if the City is requiring a connection as a condition to a permit or development.”

SDC Waiver

Similarly, some challenges of implementing an SDC waiver were also known to the Sewer Ordinance Committee when they made their recommendations. The Committee was also aware of other jurisdictions in the state waiving their SDCs. The City Attorney’s analysis largely confirmed what had been shared. The Washington State Constitution at Article 8, Section 7 prevents the City from giving away public funds unless it is to the poor and infirm. He then describes ways in which SDCs can be appropriately waived for affordable housing projects. The actions of other jurisdictions were not analyzed in detail. Specific caselaw was not provided. The City Attorney’s analysis begins with this statement, which may illuminate why: “First, any challenge to the SDC fees/waiver would be one [sic] the party contesting the waiver.” The implication here may require a more practical—less legalistic—view. Few people will be alarmed when told they are not subject to a multi-thousand dollar charge. Even fewer of those would bring the issue to a court to compel their own payment of such a charge.

This author does not intend the foregoing to be interpreted as a recommendation to implement the SDC waiver—to gift public funds to those who are not poor or infirm. It only attempts to explain why other jurisdictions might be maintaining waivers which appear to contravene the Washington Constitution.

Risk Tolerance

With this information, the City Council is now placed in a position where they must make risk tolerance decisions. The questions below are propelling. They offer a starting point to narrow down which decisions are appropriate. Additional questions or considerations are possible and encouraged. Answers to the questions may provide staff with opportunities to share expertise that causes re-evaluation of the answer.

Stand-By Fee:

- Does the Council wish to continue pursuing adoption of the Stand-By Fee?
- Does the Council seek other fee-based ways to spread the cost of sewer extension across the community?
- Does the Council want to ask the voters to approve a tax to facilitate sewer extension?

SDC Waiver

- Does the Council wish to continue pursuing adoption of the SDC Waiver?
- Does the Council wish to pursue an SDC Waiver for affordable housing only?
 - Should an affordable housing SDC Waiver be universal, or only available as a connection incentive for existing development?

The Council’s recent decision on ARPA funding did not advance the recommendations of the Sewer Ordinance Committee. All of the above are predicated on an assumption that the Council will continue to support the Sewer Ordinance Committee’s desires. This author does not want to take that assumption as incontrovertible:

- Does the Council wish to embrace the Sewer Ordinance Committee's preference for the public to bear the cost of sewer extension?
- Does the Council wish to embrace the Sewer Ordinance Committee's preference to insulate individuals from large expenses related to sewer extensions?

Next Steps

Once authorized, the public release draft ordinance will be circulated to solicit public comment. Once public comment is received, the City Council will be asked whether to continue the amendment discussion or whether to maintain the code as-is. If amendment discussions continue, the City Council will be asked for direction on how to further incorporate public comments.

Prepared by,

Ben Shumaker
Community Development Director

Attachment

- 1- Public Release Draft Ordinance, May 16, 2024 (45 pages)
- 2- Report on Sewer Ordinance Committee, January 12, 2024 (7)

Chapter 13.08 SEWER AND PRETREATMENT

Sections:

13.08.010 Purpose and policy.

This chapter sets clear standards and requirements for any person served by the publicly owned treatment works (POTW) for the city and the means by which such requirements will be imposed and enforced. This chapter is intended to:

- A. Establish standards for the collection of sewage and wastewater in areas served by the city of Stevenson.
- B. Prevent any discharge to the sanitary sewer which could:
 - 1. Damage the transmission or treatment systems;
 - 2. Interfere with the POTW's operation;
 - 3. Be incompatible with the POTW's biological processes.
 - 4. Pass through the treatment plant at levels which may harm the environment;
 - 5. Threaten the health and safety of employees and the public.
- C. Enable the city to support the implementation of a pretreatment program that meets Washington State rules in Chapter 173-216 WAC, federal rules of 40 CFR part 403, conditions of its National Pollutant Discharge Elimination System (NPDES) permit, sludge use and disposal requirements, and any other federal or state laws to which the POTW is subject.
- D. Promote reuse and recycling of industrial wastewater and sludge from the POTW.
- E. Provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW. More specifically, equitable distribution of costs is accomplished by expanding the pool of ratepayers to include those who have the option to connect to the POTW and do not. Equitable distribution of costs for POTW expansion is accomplished by placing greater expectations on ratepayers and the public at large to pay than on developers.
- F. Manage urbanization through the expansion of the public sewer system. More specifically, this management is accomplished by keeping Stevenson Stevenson in areas where the public sewer system is not available. This management is accomplished, in part, by City's more stringent approach to development of commercial uses, multi-family uses, and land divisions of 3 lots than for development of single-family and two-family residential development and land divisions of only 2 lots. The desired management is accomplished, in part, by the real estate development market's response to City standards. The City expects the market for the latter development types to continue according to existing trends. The City expects this to decrease the inventory of land available to the former development types and increase the per dwelling cost of extending public sewer to such areas. The City expects this increase will make more intensive and dense land uses less feasible, which will continue to under-supply the market's demand. Moreover, the City deems increased housing costs and utility rates an acceptable outcome of keeping Stevenson Stevenson.

13.08.020 Applicability.

This chapter shall apply to all properties within the corporate limits of Stevenson and to all persons connected or believed or intended to be connected to the sanitary sewer collection system operated by the city. Such persons shall be known as users as defined herein, and the provisions of this ordinance apply as specified herein to standard users, significant industrial users, and non-significant industrial users. The ordinance compels

the production of information; authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

13.08.030 Administration.

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

13.08.040 Abbreviations.

The following abbreviations, when used in this chapter, shall have the designated meanings:

AKART - All known, available, and reasonable treatment

BOD - Biochemical Oxygen Demand

BMP - Best Management Practice

CFR - Code of Federal Regulations

CIU - Categorical Industrial User

EPA - U.S. Environmental Protection Agency

gpd - gallons per day

mg/l - milligrams per liter

NOEC - No observable detrimental effect

NPDES - National Pollutant Discharge Elimination System

NSCIU - Non-Significant Categorical Industrial User

OSS – On-site septic system

POTW - Publicly Owned Treatment Works

RCRA - Resource Conservation and Recovery Act

SIU - Significant Industrial User

TSS - Total Suspended Solids

U.S.C. - United States Code

13.08.050 Definitions.

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

A. Words and Phrases beginning with "A".

1. "ASTM specification." All references to the form ASTM mean the Standard Specifications or Methods of the American Society for Testing Materials of the serial designation indicated by the number and, unless otherwise stated, refer to the latest adopted revision of such specifications or method.
2. "Act" or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. Section 1251 on.

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3. "Approval authority." The Washington State Department of Ecology, Water Quality Program Manager.
 4. "Authorized or duly authorized representative of the user."
 - a. If the user is a corporation:
 - i. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - ii. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which 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 control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - b. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
 - c. If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
 - d. The individuals described in paragraphs 1 through 3, above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.
 5. "Available." A public sewer abuts a lot along any street, alley, right-of-way or easement accessible to the lot owner.
- B. Words and Phrases beginning with "B".
1. "Biochemical oxygen demand or BOD." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).
 2. "Best management practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in SMC 13.08.210(A) and (B) [40CFR 403.5(a)(1) and (b)]. BMPs may also 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.
 3. "Building drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.
 4. "Building sewer" means the extension from the building drain to the property line or right-of-way line for connection with the public sewer service connection.
- C. Words and Phrases beginning with "C".
1. "Categorical pretreatment standard" or "categorical standard." Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. Section 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405—471.
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2. "Categorical industrial user." An industrial user subject to a categorical pretreatment standard or categorical standard.
 3. "City." The city of Stevenson or its city council
 4. "Combined sewer" means a sewer receiving both surface runoff and sewage.
 5. "Composite sample." A representative composite of samples of a waste stream taken throughout the period of a day when discharges are produced by a regulated activity. "Time proportionate" samplers shall be used, unless there is capability to interface with a flow metering device to produce a representative "flow proportionate" composite sample.
 6. "Connection" or "connect" means construction of sewer line, which could include building sewer and service connection, connecting a structure or structures on a lot to a public sewer.
- D. Words and Phrases beginning with "D".
1. "Daily concentration." The concentration obtained through analysis of a composite sample of all discharges over a day (or 24-hour period) or the average of all discrete samples taken over such period.
 2. "Daily limit (maximum daily limit)." The maximum allowable discharge of a pollutant over a calendar day or equivalent 24-hour period. Where daily limits are expressed in units of mass, compliance is the product of the Daily Concentration and the flow over the same period.
 3. "Director." The city of Stevenson public works director, or designee.
- E. Words and Phrases beginning with "E".
1. "Ecology." The Washington State Department of Ecology, who is also the control authority for purposes of the federal pretreatment program.
 2. "Environmental Protection Agency" or "EPA." The U.S. Environmental Protection Agency or, where appropriate, the regional water management division director, the regional administrator, or other duly authorized official.
 3. "Existing source." Any source of discharges subject to categorical standards and discharging prior to the promulgation of those standards or otherwise not meeting the definition of a "new source" in this section.
- F [Reserved.]
- G. Words and Phrases beginning with "G".
1. "Garbage" means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.
 2. "Grab sample." A sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.
- H. [Reserved.]
- I. Words and Phrases beginning with "I".
1. "Indirect discharge" or "discharge." The introduction of pollutants into the POTW from any nondomestic source subject to this chapter or other state or federal regulations.
 2. "Industrial wastes" means the liquid wastes from industrial processes as distinct from sewage from other sources.
 3. "Instantaneous limit." The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of a discrete sample. For analytes for which users must take a grab sample for compliance purposes, this standard is the same as the daily maximum standard. For all other pollutants the instantaneous limit shall be twice the daily limit.
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4. "Interference." A discharge which causes (either by itself or in combination with other discharges) a violation of the city's NPDES permit or prevents the intended sewage sludge use or disposal by inhibiting or disrupting the POTW, including its collection systems, pump stations, and wastewater and sludge treatment processes. For example, a discharge from a user which causes a blockage resulting in a discharge at a point not authorized under the city's NPDES permit.
- J. [Reserved.]
- K. [Reserved.]
- L. Words and Phrases beginning with "L".
1. "Local limits." Effluent limitation developed for users by the director to specifically protect the potw from the potential of pass through, Interference, and intended biosolids uses. Such limits shall be based on the POTW's site-specific flow and loading capacities, receiving water considerations, and reasonable treatment expectations for non-domestic wastewater. See SMC 13.08.240 for a full list of local limits.
 2. "Lot." A fractional part of divided lands having fixed boundaries and being of sufficient area and dimensions to meet relevant zoning requirements. "Lot" also is any identifiable parcel of unsubdivided land with established boundaries set forth in a deed or other form of conveyance. The term includes "tract" and "parcel" and excludes the term "tax parcel".
 3. "Lot Line." Any line bounding a lot as defined herein.
- M. Words and Phrases beginning with "M".
1. "Medical waste." Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
 2. "Monthly average." The arithmetic mean of the effluent sample results collected during a calendar month or specified 30-day period. Where the city has taken a sample during the period, it must be included in the monthly average if provided in time. However, where composite samples are required, grab samples taken for process control or by the city are not to be included in a monthly average.
 3. "Monthly average limit." The limit to be applied to the monthly average to determine compliance with the requirements of this chapter (see SMC 13.08.240 for listing).
 4. "Multi-Family Development." Any lot on which 3 or more dwellings are located or intended to be located.
- N. Words and Phrases beginning with "N".
1. "Natural outlet" means any outlet into a water-course, pond, ditch, lake or other body of surface or groundwater.
 2. "New source."
 - a. A facility whose construction began after categorical pretreatment standards applicable to its operations were proposed and with a real or potential discharge provided the facility is: A) constructed at a site at which no other source is located; B) totally replaces the process or production equipment that generate regulated process waste streams at an existing source; or C) the new processes are substantially independent of an existing source at the same site.
 - b. Construction at an existing source does not make the source a new source if the construction merely alters, partially replaces, or adds to existing process or production equipment.
 - c. Construction of a new source is considered to have begun when the owner or operator either began significant site preparation work including earthwork or removal of structures to allow the new facilities or equipment, began constructing a facility or emplacing equipment, or entered
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into a binding contract to purchase necessary facilities or equipment within a reasonable time prior to operation.

Users must provide documentation sufficient to conclusively substantiate any existing source claim with their initial permit application. Once categorized as a new source, users may not assert "existing source" status in subsequent permit renewals.

3. "Non-contact cooling water." Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- O. Words and Phrases beginning with "O".
1. "On-site sewage system" or "OSS". An integrated system of components, located on or nearby the property it serves, that conveys, stores, treats, and/or provides subsurface soil treatment and dispersal of sewage. It consists of a collection system, a treatment component or treatment sequence, and a soil dispersal component. An on-site sewage system also refers to a holding tank sewage system or other system that does not have a soil dispersal component.
- P. Words and Phrases beginning with "P".
1. "Pass through." A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit, including an increase in the magnitude or duration of a violation.
 2. "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.
 3. "pH." A measure of the acidity or alkalinity of a solution, expressed in standard units.
 4. "Pollutant." Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, carbonaceous oxygen demand, toxicity, or odor).
 5. "Pretreatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. Dilution is not considered pretreatment.
 6. "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment imposed on a user other than a pretreatment standard such as the proper operation of pretreatment devices, record keeping, and reporting.
 7. "Pretreatment standards" or "standards." Discharge prohibitions (SMC 13.08.210), categorical pretreatment standards (SMC 13.08.220), state pretreatment standards (SMC 13.08.230), local limits (SMC 13.08.240), and site-specific limits based on potential for vapor toxicity, explosion, sewer corrosion, or other detrimental effects to the POTW.
 8. "Properly shredded garbage" means the wastes from the preparation, cooking and dispensing of foods that have been shredded to such degree that all particles will be carried freely under the flow and conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
 9. "Public sewer" means a sewer in which all owners of abutting properties have equal rights and is controlled by public authority.
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10. "Publicly owned treatment works" or "POTW." A treatment works, as defined by Section 212 of the Act (33 U.S.C. Section 1292), which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant. Q.
[Reserved.]
 - R. [Reserved.]
 - S. Words and Phrases beginning with "S".
 1. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface and groundwater are not intentionally admitted.
 2. "Septic tank waste." Sewage and typically associated solids from domestic activities pumped from a septic tank serving one or more private residences. The director may also consider wastes from other holding tanks such as boat blackwater, bilge water, cesspools, and treatment lagoons to be septic tank waste so long as they are absent chemicals which might inhibit biological activity.
 3. "Service connection" means a public sewer which has been constructed to the property line or right-of-way from a public sewer lateral or main for the sole purpose of providing a connection for the building sewer.
 4. "Sewage." Human excrement and gray water (e.g., water from household showers, toilets, kitchens, clothes and dish washing, and related domestic activities).
 5. "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.
 6. "Sewage works" means all city-owned facilities for collecting, pumping, treating and disposing of sewage.
 7. "Sewer" means a pipe or conduit for carrying wastewater.
 8. "Single-Family Development." Any lot on which one dwelling is located or intended to be located.
 9. "Significant industrial user" or "SIU". Except as provided in paragraphs (3) and (4) of this section, a Significant Industrial User is:
 - a. A user subject to categorical pretreatment standards; or
 - b. A user that:
 - i. Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
 - ii. Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - iii. Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
 - c. The city may determine that a user subject to categorical pretreatment standards is a non-significant categorical industrial user rather than a significant industrial user on a finding that the user never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:
 - i. The user, prior to city's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;

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- ii. The user annually submits the certification statement required in SMC 13.08.695(B) [see 40CR 403.12(q)], together with any additional information necessary to support the certification statement; and
 - iii. The user never discharges any untreated concentrated wastewater.
 - iv. Upon a finding that a user meeting the criteria in Subsection (2) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f) (6), determine that such user should not be considered a significant industrial user.
10. "Slug load" or "slug discharge." 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. This includes discharges at a flow rate or concentration which could cause a violation of the prohibited discharge standards of SMC 13.08.210.
11. "Standard user." A user that is not subject to a categorical pretreatment standard or categorical standard.
12. "Storm sewer" or "storm drain" means a sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.
13. "Storm water." Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
14. "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.
- T. Words and Phrases beginning with "T".
1. "Two-Family Development." Any lot on which 2 dwellings are located or intended to be located. This includes developments involving accessory dwelling units.
- U. Words and Phrases beginning with "U".
1. "User" or "industrial user." A source of indirect discharge.
- V. [Reserved.]
- W. Words and Phrases beginning with "W".
1. "Wastewater." Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- 2.. "Wastewater treatment plant" or "treatment plant." That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.
3. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

13.08.060 Certain facilities prohibited.

Except as provided in this chapter, it is unlawful to construct or maintain any on-site sewage system, including but not limited to privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage or industrial wastes.

13.08.070 Wastewater Disposal Options.

- A. Compliance Required. The owner of any lot which generates sewage or industrial wastes within the city must, at their own expense, install suitable toilet and/or wastewater facilities and comply with Table 13.08.070-1.

Table 13.08.070-1: Sewage and Wastewater Disposal Options		
New Development	Public Sewer Available	Public Sewer Not Available
Commercial or Industrial	Connect to public sewer	Extend and connect to public sewer
Multi-Family	Connect to public sewer	Extend and connect to public sewer
Land Division Resulting in 3 Lots or More	Connect to public sewer	Extend and connect to public sewer
Land Division Resulting in 2 Lots	Connect to public sewer	Install OSS ^{1,2,3}
Single-Family or Two-Family	Connect to public sewer	Install OSS ³
Alteration of Existing Development	Public Sewer Available	Public Sewer Not Available
Alteration of any Commercial, Industrial, or Multi-Family development type which necessitates expansion of existing OSS	Connect to public sewer	Continue use of existing OSS ³
Alteration of any Single-Family or Two-Family development type which necessitates expansion of existing OSS	Continue use of existing OSS or Connect to public sewer	Continue use of existing OSS ³
Conversion of any Single-Family development to a Two-Family development which necessitates expansion of existing OSS	Continue use of existing OSS or Connect to public sewer	Continue use of existing OSS ³
Alteration of any development type which does not necessitate expansion of existing OSS	Continue use of existing OSS or Connect to public sewer	Continue use of existing OSS
Existing Development	Public Sewer Available	Public Sewer Not Available
All Development Types	Continue use of existing OSS or Connect to public sewer	Continue use of existing OSS
<p>1 – Where any lot in the land division equals or exceeds double the minimum lot size allowed when public sewer is available shall demonstrate how public sewer service can be made available to all lots within the division.</p> <p>2 – When sewer becomes available to any lot within a land division approved after the effective date of this ordinance, it shall be deemed available to all lots within said land division.</p> <p>3 – Installation or expansion of an OSS will not be approved unless the lot owner agrees to pay a proportionate share of the cost to make sewer available to the property.</p>		

- B. Exceptions. The following exceptions are permitted to the requirements of Table 13.08.070-1: Sewage and Wastewater Disposal Options:

1. The installation, modification, and continued use of an OSS is also subject to the controls adopted by the county or state health officials.
2. Any lot to which public sewer is not available has the option to extend and connect to public sewer.
3. Lots granted relief after appeal under SMC 13.08.078.

13.08.072 Sewer System Stand-By Fee.

A sewer system stand-by fee shall be charged to the owner of any lot to which public sewer service is available but which continues to use an existing OSS. The amount of the fee shall be established and periodically adjusted by resolution of the City Council. Payment of the fee shall commence beginning 90 days after the date of the official notice issued by the director under SMC 13.08.074(A).

13.08.074 Public Sewer Availability—Notification, Response.

- A. Notification. Whenever the sewage and wastewater disposal options for a lot change, the director shall send a notice to the lot owner informing them of their options under SMC Table 13.08.070-1, including the permissible exceptions thereto, and date the commencement date of the sewer service stand-by fee imposed under SMC 13.08.072.
- B. Response Required. Within 90 days of the date of the notice of the official notice issued by the director, the lot owner shall inform the City of their intent to comply with SMC 13.08.070.
 - 1. Whenever connection to the public sewer system is the only option available under SMC Table 13.08.070-1, the lot owner shall connect all wastewater facilities directly with the public sewer. Connection shall be made within 90 days of their response to the official notice, comply with all applicable standards, and be made at no expense to the City,
 - 2. Whenever a lot owner has the option to connect to the public sewer system or continue use of an existing OSS, the lot owner shall respond with a statement of intent notifying the city of the option they select.
- C. Connections. Where compliance with SMC Table 13.08.070-1 results in a connection to the public sewer system, the connection shall be made, either by gravity or with approved pumping facilities, in accordance with the provisions of this chapter and the Stevenson Engineering Standards.

13.08.076 Optional Connection to Public Sewer—Connection Incentive.

- A. If, within 90 days after the date of the official notice issued by the director under SMC 13.08.074(A), a lot owner submits a notice of intent to connect to public sewer under SMC 13.08.074(B)(2), the lot is eligible for waiver of the wastewater system development charge and reduction of the sewer stand-by fee established in SMC 13.08.072. Eligibility for these incentives is as follows:
 - 1. The wastewater system development charge will be waived if connection to the public sewer system is made within 3 years of the official notice issued by the director.
 - 2. A 50% reduction of the sewer stand-by fee will be authorized, provided the lot owner records with the Skamania County Auditor a fully executed agreement to pay for the back-billing of the entire amount of the reduced fees, if connection to the public sewer system is not made within 3 years of the official notice issued by the director. Said agreement shall be reviewed for acceptability by the City Attorney and run with the land.
- B. If, within 90 days after the date of the official notice issued by the director under SMC 13.08.074(A), no statement of intent is provided under SMC 13.08.074(B)(2) and if no connection to the public sewer system is made within 3 years of the date of the official notice issued by the director, no connection incentive shall be available to the lot.

13.08.078 Connection with public sewer required—Appeal.

- A. Appeal Authorized. When compliance with SMC Table 13.08.070-1 requires connection to the public sewer system, a lot owner may file written objections with the city against so being required to install such facilities, the provisions of SMC 13.08.070 shall not be enforced upon such owner until the city council shall have, at a meeting thereof, heard such objections of such owner, and rendered its decision thereon. Such

meeting shall be held not less than 10 days or more than 45 days after the date of the filing of such objections. Not less than 7 days prior to the date set for such meeting, the city council shall give due notice of the date set therefor to such owner. The decision of the city council shall be final and no appeal shall be taken therefrom by such owner except as is provided by law.

- B. Timeliness. Appeals are timely if received by the director within 90 days after the date of the official notice issued by the director under SMC 13.08.074(A) or within 90 days of the date of such other notice issued by the director citing a requirement to connect to the public sewer system under SMC Table 13.08.070-1.
- C. Review Criteria. The City Council may, at its sole discretion, grant or deny relief upon appeal. Factors for consideration may include and are not limited to:
 - 1. Whether or not the length of the building sewer or sizing of pumping facilities necessary to connect to public sewer present a financial hardship for the appellant. For the purposes of this subsection, "financial hardship" means an unrecoverable cost equal to or exceeding 20 percent of the fair market value of the building site with sewer facilities installed, or if the property is already developed, 20 percent of the fair market value of the building and building site with sewer facilities installed.
 - 2. Whether or not the appellant has requested and been denied a latecomer reimbursement agreement for the cost of extending public sewer, provided extension is necessary.
 - 3. Whether or not the lot owner is willing to enter into a ULID no-protest or other agreement to pay a proportionate share of future extension of the public sewer system.
 - 4. Whether or not development on the lot is owner-occupied or used for nonprofit purposes.
 - 5. Whether or not the use or density of development on the lot is consistent with adopted city plans.
 - 6. Whether or not the OSS has been inspected and found to be of suitable size and condition.
 - 7. Whether or not there is evidence of water quality degradation in a nearby potable water well or watercourse.
- D. Recording. When the decision of the City Council is contingent on an agreement by the lot owner, The lot owner shall record fully executed agreements with the Skamania County Auditor's Office.

13.08.080 Connection with public sewer—Permit.

- A. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the director.

13.08.090 Connection with public sewer—Building sewers.

- A. Where existing buildings are too low to be served by gravity to an available sewer, and when required to connect to public sewer as stipulated under SMC 13.08.070, the owner will install a unit to pump sewage into the available sanitary sewer system. The owner shall operate and maintain private sewage pumping facilities in a sanitary manner at all times, at no expense to the city.
- B. Old building sewers may be used in connection with new buildings, or new building sewers only when they are found to meet all requirements of the Stevenson Engineering Standards.

13.08.100 Industrial user surveys.

The city is obligated under federal law to identify all users potentially subject to the pretreatment program, and the character and volume of pollutants discharged by such users. To satisfy this requirement, the Director will categorize all users as either "standard user" or "categorical industrial user". To ensure proper categorization, all sources of non-domestic discharges to the POTW must, upon request of the Director, periodically complete an industrial user survey form. Proper completion of survey requirements is a condition of initial and continued discharge to the public sewer system. Users failing to fully comply with survey requirements within 30 days shall be

subject to all enforcement measures authorized under this chapter including termination of service. The director is authorized to prepare several forms for this purpose and require completion of the particular form which the director determines appropriate to provide the information needed to categorize each user. The director shall be authorized to categorize each user, provide written notice of a user's categorization and what it means, and revise this categorization at any time.

13.08.140 On-Site Sewage System—Compliance with state standards required.

A. The type, capacities, location and layout of an on-site sewage system shall comply with all recommendations and requirements of county or state health officials.

B. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

13.08.142 Administrative Appeal of Health Official Requirement to Connect.

- A. Appeal Authorized. When compliance with the requirements of county or state health officials results in connection to the public sewer system which is not already required by SMC Table 13.08.070-1, a lot owner may file written objections with the director against said requirement from county or state health officials, said requirement shall not be enforced upon such owner until the director shall have heard such objections of such owner, and rendered a decision thereon. Such meeting shall be held not less than 10 days or more than 45 days after the date of the filing of such objections. Not less than 7 days prior to the date set for such meeting, the director shall give due notice of the date set therefor to such owner and the relevant county or state health officials. The decision of the director shall be final and no appeal shall be taken therefrom by such owner except as is provided by law.
- B. Timeliness. Appeals are timely if received by the director within 90 days after the date of the official notice issued by the county or state health official citing a requirement to connect to the public sewer system.
- C. Review Criteria. The director shall grant relief upon appeal only when **the following criteria are satisfied:**
- 1. The length of the building sewer or sizing of pumping facilities necessary to connect to public sewer presents a financial hardship for the appellant. For the purposes of this subsection, "financial hardship" means an unrecoverable cost equal to or exceeding 20 percent of the fair market value of the building site with sewer facilities installed, or if the property is already developed, a cost equal to or exceeding 120 percent of the cost to achieve OSS compliance.**
 - 2. The appellant has requested and been denied a latecomer reimbursement agreement for the cost of extending public sewer, if extension is required.**
 - 3. The lot owner is willing to enter into a ULID no-protest or other agreement to pay a proportionate share of future extension of the public sewer system.**
 - 4. Development on the lot is owner occupied or used for nonprofit purposes.**
 - 5. The use or density of development on the lot is consistent with adopted city plans.**
 - 6. The OSS has been inspected and found to be of suitable size and condition.**
 - 7. There is no evidence of water quality degradation in a nearby potable water well or watercourse.**
- D. Recording. When the decision of the director is contingent on an agreement by the lot owner, The lot owner shall record fully executed agreements with the Skamania County Auditor's Office.

13.08.150 Private system—Connection with public sewer required when—Abandonment of private facilities.

At such time as a lot connects to the public sewer system, any existing septic tanks, cesspools and similar private sewage disposal facilities not utilized in an approved pumping facility shall be abandoned according to the requirements of county or state health officials.

13.08.160 On-Site Sewage System—Permitting, Inspection, and Maintenance requirements.

- A. Where a public sewer system is not available under the provisions of SMC 13.08.070, the building sewer shall be connected to a private on-site sewage system.
- B. Before commencement of construction, expansion, replacement, or repair of an on-site sewage system the owner shall first obtain a written permit signed by the director. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the director. The appropriate permit and plan check fee shall be paid to the city at the time the application is filed.
- C. A permit for a private on-site sewage system shall not become effective until the installation is completed to the satisfaction of the director. They shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the director when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the director.
- D. The owner shall operate and maintain private sewage disposal or pumping facilities in a sanitary manner at all times, at no expense to the city.

13.08.170 Provisions not to limit additional requirements.

No statement contained in this Chapter SMC 13.08 shall be construed to interfere with any additional requirements that may be imposed by county or state health officials.

13.08.210 Prohibited discharge standards.

- A. General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.
- B. Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
 - 1. Pollutants which either alone or by interaction may create a fire or explosive hazard in the POTW, a public nuisance or hazard to life, or prevent entry into the sewers for their maintenance and repair or are in any way injurious to the operation of the system or operating personnel. This includes waste streams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21.
 - 2. Wastewater having a pH less than 5.0 or more than 11.0, or otherwise having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel. Discharges outside this pH range may be authorized by a permit issued by the city pursuant to a finding that the system is specifically designed to accommodate a discharge of that pH.
 - 3. Solid or viscous substances in amounts which may cause obstruction to the flow in the sewer or other interference with the operation of the system. In no case shall solids greater than one-quarter inch (0.64 cm) in any dimension be discharged.

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4. Pollutants, 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.
 5. Wastewater having a temperature which will interfere with the biological activity in the system, has detrimental effects on the collection system, or prevents entry into the sewer. In no case shall wastewater be discharged which causes the wastewater temperature at the treatment plant to exceed 104 degrees F (40 C).
 6. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
 7. 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.
 8. Trucked or hauled pollutants.
 9. The following are prohibited unless approved by the director under extraordinary circumstances, such as lack of direct discharge alternatives due to combined sewer service or need to augment sewage flows due to septic conditions. (As required under WAC 173-216-050)
 - a. Non-contact cooling water in significant volumes.
 - b. Stormwater, or other direct inflow sources.
 - c. Wastewaters significantly affecting system hydraulic loading, which do not require treatment or would not be afforded a significant degree of treatment by the system.
 10. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair.
 11. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's NPDES permit.
 12. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations.
 13. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the director.
 14. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
 15. Medical wastes, except as specifically authorized by the director in a wastewater discharge permit;
 16. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;
 17. Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
 18. Fats, oils, or greases of animal or vegetable origin in concentrations greater than 300 mg/l, or total petroleum hydrocarbon concentrations of no more than 100 mg/l.
 19. Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than ten percent or any single reading over 20 percent of the lower explosive limit based on an explosivity meter reading.

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

13.08.220 National categorical pretreatment standards.

The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405—471 are hereby incorporated.

- A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, Ecology may impose equivalent concentration or mass limits in accordance with SMC 13.08.220.D and 13.08.220.E (see 40 CFR 403.6(c)).
- B. When categorical pretreatment standards are expressed in terms of a mass of pollutant which may be discharged per unit of production, Ecology may either impose limits based on mass or equivalent effluent concentrations. The user must supply appropriate actual or projected long-term production rates for the unit of production specified in order to facilitate this process. (See 40 CFR 403.6(c)(2))
- C. Ecology may permit wastewater subject to a categorical pretreatment standard to be mixed with other wastewaters prior to treatment. In such cases, the user shall identify, in their permit application, all categorical wastestreams and provide sufficient information on each non-categorical wastestream to determine whether it should be considered dilute for each pollutant. Absent information showing that non-categorical wastestreams contain the pollutant in question at levels above that of the supply water, such wastestreams shall be considered dilute. In such situations, Ecology shall apply the combined wastestream formula as found at 40 CFR 403.6(e) to determine appropriate limits.
- D. When a categorical pretreatment standard is expressed only in terms of pollutant concentrations, an industrial user may request that Ecology convert the limits to equivalent mass limits. Ecology may establish equivalent mass limits if the industrial user meets all of the conditions set forth below.
 - 1. To be eligible for equivalent mass limits, the industrial user must submit information with its permit application or permit modification request which:
 - a. Shows it has a pretreatment system which has consistently met all applicable pretreatment standards and maintained compliance without using dilution.
 - b. Describes the water conserving practices and technologies it employs, or will employ, to substantially reduce water use during the term of its permit.
 - c. Includes the facility's actual average daily flow rate for all waste streams from continuous effluent flow metering.
 - d. Determines an appropriate unit of production, and provides the present and long-term average production rates for this unit of production.
 - e. Shows that long term average flow and production are representative of current operating conditions.
 - f. Shows that its daily flow rates, production levels, or pollutant levels do not vary so much that equivalent mass limits would be inappropriate.
 - g. Shows the daily and monthly average pollutant allocations currently provided based on the proposed unit of production.
 - 2. An industrial user subject to equivalent mass limits must:
 - a. Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits.
 - b. Continue to record the facility's flow by continuous effluent flow monitoring.
 - c. Continue to record the facility's production rates.

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- d. Notify Ecology if production rates are expected to vary by more than 20 percent from the baseline production rates submitted according to SMC 13.08.220(D)(1)(d). Ecology may reassess and revise equivalent limits as necessary to reflect changed conditions.
 - e. Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to SMC 13.08.220(D)(1)(b) so long as it discharges under an equivalent mass limit.
3. Equivalent mass limits:
- a. Will not exceed the product of the actual average daily flow from regulated process(es) of the user and the applicable concentration-based daily maximum and monthly average standards (and the appropriate unit conversion factor).
 - b. May be reassessed and the permit revised upon notification of a revised production rate, as necessary to reflect changed conditions at the facility; and
 - c. May be retained in subsequent permits if the user's production basis and other information submitted in SMC 13.08.220(D)(1) is verified in their reapplication. The user must also be in compliance with SMC 13.08.953 regarding the prohibition of bypass.
- E. Ecology may convert the mass limits of the categorical pretreatment standards of 40 CFR Parts 414 (organic chemicals), 419 (petroleum refining), and 455 (pesticide formulating, packaging and repackaging) to concentration limits in permits for such users. In such cases, the director will document the basis and the determination that dilution is not being substituted for treatment in the permit fact sheet.
- F. Ecology must make the documentation of how any equivalent limits were derived (concentration to mass limits or vice versa) publicly available.
- G. Once incorporated into its permit, the user must comply with the equivalent limits in lieu of the categorical standards from which they were derived.
- H. The same production and flow estimates shall be used in calculating equivalent limits for the monthly (or multiple day average) and the maximum day.
- I. Users subject to permits with equivalent mass or concentration limits calculated from a production based standard shall notify the director if production will significantly change. This notification is required within two business days after the user has a reasonable basis to know that that production will significantly change in the next calendar month. Users who fail to notify the director of such anticipated changes must meet the more stringent of the equivalent limits or the user's prior limits.

13.08.230 State pretreatment standards.

Washington State pretreatment standards and requirements, located at Chapter 173-216 WAC, were developed under authority of the Water Pollution Control Act, Chapter 90.48 RCW and are hereby incorporated. The version incorporated is the version current as of the date of the latest revision or version of this ordinance, or amendment thereto. All waste materials discharged from a commercial or industrial operation into the POTW must satisfy the provisions of Chapter 173-216 WAC. In addition to some slightly more stringent prohibitions, (merged with SMC 13.08.210), the following provisions unique to Washington State are required by this chapter for discharges to a POTW:

- A. Any person who constructs or modifies or proposes to construct or modify wastewater treatment facilities must first comply with the regulations for submission of plans and reports for construction of wastewater facilities, chapter 173-240 WAC. Sources of non-domestic discharges shall request approval for such plans through the Department of Ecology. To ensure conformance with this requirement, proof of the approval of such plans and one copy of each approved plan shall be provided to the director before commencing any such construction or modification.

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- B. Users shall apply to Ecology for a permit at least 60 days prior to the intended discharge of any pollutants other than domestic wastewater or wastewater which the director has determined is similar in character and strength to normal domestic wastewater with no potential to adversely affect the POTW. (173- 216-050(1)). Users shall provide proof of compliance with this requirement together with a duplicate permit application to the director prior to commencing the new or changed discharge.
 - C. All significant industrial users must apply for and obtain a permit from ecology prior to discharge.
 - D. All users shall apply all known, available, and reasonable methods to prevent and control waste discharges to the waters of the state (AKART). The director may determine individually or categorically what represents AKART for a user or category of users. (173-216-050(3)).
 - E. Discharge restrictions of Chapter 173-303 WAC (Dangerous Waste) shall apply to all Users. (Prohibited discharge standards have been merged with Federal prohibitions in SMC 13.08.210).
 - F. Claims of confidentiality shall be submitted for all information which the user desires confidentiality according to procedures at WAC 173-216-080. Information which may not be held confidential includes the: Name and address of applicant, description of proposal, the proposed receiving water, receiving water quality, and effluent data. Claims shall be reviewed based on the standards of WAC 173-216-080, Chapter 42.17 RCW, Chapter 173-03 WAC, and RCW 43.21A.160.
 - G. Persons applying for a new permit or a permit renewal or modification which allows a new or increased pollutant loading shall publish notice for each application in the format provided by Ecology unless Ecology provides a written waiver of the requirement. Such notices shall fulfill the requirements of WAC 173-216-090. These requirements include publishing:
 - 1. The name and address of the applicant and facility/activity to be permitted.
 - 2. A brief description of the activities or operations which result in the discharge.
 - 3. Whether any tentative determination which has been reached with respect to allowing the discharge,
 - 4. The address and phone number of the office of the Director where persons can obtain additional information.
 - 5. The dates of the comment period (which shall be at least 30 days),
 - 6. How and where to submit comments or have any other input into the permitting process, including requesting a public hearing.
 - H. Ecology may require the applicant to also mail this notice to persons who have expressed an interest in being notified, to state agencies and local governments with a regulatory interest, and to post the notice on the premises. If the Ecology determines there is sufficient public interest they shall hold a public meeting following the rules of WAC 173-216-100. The director may require users not subject to Ecology permits to provide public notice for a contract, discharge authorization, coverage by local BMPs, food service establishment, or others regulated under authority of this chapter.
 - I. Permit terms shall include, wherever applicable, the requirement to apply all known, available, and reasonable methods of prevention, control, and treatment.
 - J. All required monitoring data shall be analyzed by a laboratory registered or accredited under the provisions of Chapter 173-50 WAC, except for flow, temperature, settleable solids, conductivity, pH, turbidity, and internal process control parameters. However, if the laboratory analyzing samples for conductivity, pH, and turbidity must otherwise be accredited, it shall be accredited for these parameters as well.
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13.08.240 Local limits.

- A. The director may establish local limits pursuant to 40 CFR 403.5(c).
- B. The following pollutant limits are established to protect against pass through and interference and reflect the application of reasonable treatment technology. No person shall discharge wastewater in excess of the following daily maximum limits if the total mass discharged would exceed that contained in 1,000 gallons at the below limit (see column to the right of each pollutant concentration limit). The director may require flow monitoring or determine appropriate flows to use in making this estimation.
- C. The below limits apply at the point where the wastewater is discharged to the POTW. Ecology may impose mass limits in addition to concentration-based limits.
- D. Users discharging BOD, TSS, or ammonia in excess of the concentration limits by more than the threshold amount must both receive authorization from the director and pay applicable fees (usage, and impact fees) for this loading. Users in excess of this threshold amount shall be subject to the terms of the high strength surcharge program. They shall also be liable for capacity and treatment surcharges assessed by the director under the authority of this chapter up to the "ceiling" loading limit established by written authorization of the director.
- E. Users shall be subject to "instantaneous limits" (as determined by a grab sample) of equal to twice the below "daily maximum" concentrations for any pollutant for which a composite sample is required in a permit. This provision is inapplicable to users without permits, or without the permit requirement to collect a composite sample for the analyte in question.

CONVENTIONAL SURCHARGE POLLUTANT LIMITS

Conc.	Parameter:	Threshold Amount:
300 mg/l	BOD ₅	2.5 lb/d
300 mg/l	total suspended solids	2.5 lb/d
60 mg/l	ammonia	0.5 lb/d

PROTECTION OF SEWER LINE BLOCKAGE

Conc.	Parameter:	Threshold Amount:
300 mg/l	Oil and grease of animal or vegetable origin*	Any amount

*(Or compliance with the BMPs established by the director for food service establishments as an alternative to numerical standards where such BMPs have been established and the user can document compliance with them, such as the grease trap program)

PROTECTION AGAINST CORROSION, PASS THROUGH, & INTERFERENCE

Conc.	Parameter:	Threshold Amount:
50 mg/l	hydrocarbon based oil/grease	Any amount
0.5 mg/l	sulfides (H ₂ S vapor toxicity threshold)	.004 lb/d
50.0 mg/l	sulfates	.004 lb/d
1,000 mg/l	total chloride	8 lb/d
5,000 mg/l	total dissolved solids	40 lb/d
1,000 mg/l	total organic solvents (incl. alcohols)	8 lb/d
5.0 su	Minimum pH in Standard Units	

11.0 su	Maximum pH in Standard Units	
10% reduction in effluent UV transmissivity (per cm at 254 nm wavelength)		
10% decrease in the maximum effluent concentration which has no observable detrimental effect (NOEC) in any whole effluent toxicity test.		

- F. The director may use contracts to establish ceiling limits, monitoring and reporting requirements, and charges applicable to the discharge of compatible pollutants to the POTW.
- G. The director may establish and require BMPs for any category of user or type of industrial process which creates a non-domestic waste stream for which Ecology has declined to issue an individual permit. Such requirements may be applied either in lieu of or in addition to the local limits of SMC 13.08.240. BMPs may also include alternative limits which may be applied at the end of a specific process or treatment step instead of at the combined effluent. Such BMPs shall be superseded by an Ecology permit should one be issued.
- H. The construction, maintenance and performance standard of any pretreatment facility must comply with current applicable codes, especially SMC 17.25.110 C(1)(b) regarding the emission of offensive odors.

13.08.250 City's right of revision.

The city reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

13.08.260 Dilution.

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limit unless expressly authorized by an applicable pretreatment standard or requirement. The director may impose mass limitations on users where deemed appropriate to safeguard against the use of dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

13.08.270 Grease, oil and sand traps/interceptors—Requirements.

- A. Grease, oil and sand traps/interceptors, or GRD's (grease removal devices) shall be provided, when, in the opinion of the director, they are necessary for the proper handling of liquid wastes containing grease in excessive amount, or any flammable wastes, sand and other harmful ingredients, except that such GRD's shall not be required for private living quarters. This includes all food service establishments, beverage providers, and food trucks or trailers that are connected to a public sewer. All GRD's shall be of a type and capacity approved by the director and shall be located so as to be readily and easily accessible for cleaning and inspection, and shall be maintained by the owner, at his expense, in continuously efficient operation at all times.
- B. Non-compliance is described as when F.O.G. accumulation reaches 25 percent of the capacity of the GRD, or when F.O.G. is witnessed leaving the device.
- C. Fines for non-compliance may be imposed if there is a failure to properly maintain the GRD.
 - 1. First violation—\$150.00
 - 2. Second violation—\$350.00
 - 3. Third violation—\$700.00
 - 4. Fourth and every additional violation—\$1,400.00
- D. In addition to the fines imposed, a business that violates the requirements of the FOG program twice in twelve consecutive months, will be moved to the next highest BOD strength category as defined in the

wastewater rate ordinance. The business will stay in that category until they receive two consecutive passing inspections.

- E. If a business violates three times within twelve consecutive months, they will be moved up two BOD strength categories. The business will stay in that category until they receive three consecutive passing inspections.
- F. If a business violates four times within twelve consecutive months, they will be moved to the highest BOD strength category. The business will stay in that category until they receive four consecutive passing inspections.

13.08.280 Establishment of the preferred pumper program.

The preferred pumper program consists of companies that are approved by the city of Stevenson for grease trap/interceptor maintenance. These companies will come to your establishment on a regular schedule, clean your grease trap, then send a report to the city for verification of maintenance. If you decide to use a preferred pumper, the city inspector will only visit your facility once per year, if you prefer to self-clean your GRD, then a city inspector will visit your facility a minimum of four times per year.

13.08.310 Pretreatment facilities.

Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in SMC 13.08.210 within the time limitations specified by EPA, the state, or the director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense, and satisfy state requirements for review and approval of plans for wastewater facilities as described in SMC 13.08.230. Such plans (engineering report, plans and specifications, and operation and maintenance manuals) shall be submitted as required by Chapter 173-240 WAC to either the director or the Department of Ecology for review, and users shall obtain and provide the approval to the director prior to construction. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of complying with this chapter, local building codes, or from the requirement to modify such facilities if needed to meet their permit or produce a discharge acceptable to the city under the provisions of this chapter.

13.08.315 Deadline for compliance with applicable pretreatment requirements.

- A. Existing sources covered by one or more categorical pretreatment standards shall comply with such standards within three years of the date the standard is effective unless the pretreatment standard includes a more stringent compliance schedule. Ecology shall establish a final compliance deadline date for any existing user not covered by categorical pretreatment standards or for any categorical user when the local limits for the user are more restrictive than EPA's categorical pretreatment standards.
- B. New sources and new users shall comply with applicable pretreatment standards within the shortest feasible time, but in no case shall time exceed 90 days from the beginning of discharge. Prior to commencing discharge, such users shall install and start-up all pollution control equipment required to meet applicable pretreatment standards.

13.08.320 Additional pretreatment measures.

- A. The director may require users to reduce or curtail certain discharges to the sewer, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and take all other measures to protect the POTW and determine the user's compliance with the requirements of this chapter. This includes the curtailment of any device used to dispose of what might otherwise be solid waste down the sewer by grinding.

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- B. The director, based on the determination that a device is necessary for implementation of pretreatment requirements, may require any user to install and maintain, on their property and at their expense the following devices:
1. A sample taking facility accessible to the director.
 2. A suitable storage and/or flow equalization tank.
 3. Grease, oil, and/or grit interceptors.
 4. An approved combustible gas detection meter.
 5. Flowmeter with 24-hour totalizer.
- C. Users installing any of the above devices shall ensure they are of the type and capacity identified in volume/chapter/section of the Stevenson Engineering Standards or otherwise approved by the director, meet applicable building and plumbing codes, and conform to any separate requirements established by the city. Users shall locate units in areas easily accessible for cleaning and inspection by representatives of the director. Users shall be responsible for all periodic inspection, cleaning, and repair of such devices.
- D. Retrofit of User Facilities. Users may be required to retrofit facilities which were constructed prior to the adoption of the ordinance codified in this chapter. The requirement to retrofit shall be on a case-by-case basis, as determined by the director for compliance with city, state and federal regulations. The director may require installation of grease interceptors, grease traps or other pretreatment facilities for those facilities that violate discharge prohibitions and supplemental limitations as set forth in this chapter. In all cases, existing food service users that have a Type 1 hood exhaust system shall be required to retrofit with an approved grease trap or interceptor that is sized in accordance with the current Uniform Plumbing Code and its appendices. In deciding whether to require a user to retrofit their facilities, the director shall take into account all relevant circumstances, including but not limited to, the extent of potential harm caused by the discharge, the magnitude and duration of the discharge, economic detriment to the user, corrective actions by the user, the compliance history of the user, and any other relevant factors. Grease interceptor or grease trap size shall be determined in accordance with the Uniform Plumbing Code and any other requirements by the city as set forth herein at the time the user is notified that facility modifications are required. Sizing of grease traps or interceptors will be reviewed and may be modified at the request of the local sewer jurisdiction. All costs incurred in retrofitting a user's facility shall be the sole responsibility of the user.

13.08.330 Accidental discharge/slug discharge control plans.

The director may require any User to develop and implement an accidental discharge/slug discharge control plan and take other actions the director believes are necessary to control discharges which may be caused by spills or periodic non-routine activities. Where a user has an Ecology permit that requires such a plan, the user shall provide a copy to the director and notify the director as well as Ecology of any discharge required to be reported by that plan. Accidental discharge/slug discharge control plans shall include at least the following:

- A. A description of all discharge practices, including any non-routine batch discharges such as from cleaning, replenishment, or disposal;
- B. A description of all stored chemicals, disclosing all ingredients in formulations which could violate a discharge prohibition if discharged to the sewer;
- C. The procedures for immediately notifying the director of any accidental or slug discharge, as required by SMC 13.08.660; and
- D. The procedures that will be taken to prevent the occurrence or adverse impact from any accidental or slug discharge. Such procedures shall address the 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.

13.08.340 Public sewer construction—Permit required—Exception.

No person shall construct, extend or connect to any public sewer without first obtaining a written permit from the city and paying all fees and connection charges and furnishing bonds as required in Sections 13.08.080 and 13.08.370. The provisions of this section and Sections 13.08.350 through 13.08.390 requiring permits shall not be construed to apply to contractors constructing sewers and appurtenances under contracts awarded and entered into by the city.

13.08.350 Public sewer construction—Permit application requirements.

The application for a permit for public sewer construction shall be accompanied by complete plans, profiles and specifications, complying with all applicable ordinances, rules and regulations of the city, prepared by a registered civil engineer showing all details of the proposed work based on an accurate survey of the ground. The application, together with the plans, profiles and specifications, shall be examined by an authorized representative of the city who shall within ten days approve them as filed or require them to be modified as they may deem necessary.

13.08.360 Public sewer construction—Compliance with standards.

All sewer work plans, specifications and construction procedure shall conform to city standards and regulations. These standards will be as contained in the contract documents for the construction of the sewage collection and treatment facilities for the city, dated January, 1971, or any standard and regulation that the city shall subsequently adopt.

13.08.370 Public sewer construction—Bond requirements.

Prior to issuance of a permit for public sewer construction, the applicant shall furnish to the city a performance bond, or cash deposit in the amount of the total estimated cost of the work. Such performance bond, or cash deposit, shall be conditioned upon the performance of the terms and conditions of the permit, and, shall guarantee the correction of faulty workmanship and replacement of defective materials for a period of one year from and after the date of acceptance of the work by the city.

13.08.380 Public sewer construction—Reimbursement for certain extensions.

Except as provided, the extension of the public sewerage facilities to serve any parcel or tract of land shall be done by and at the expense of the owner. The size of all sewer mains and other sewerage facilities shall be as required by the city. An installer of a sewer line who is required by the city to lay sewer pipe larger than that required for his own purposes, to accommodate other users, will be reimbursed by the city for the difference in cost between the size of line installed and that which would be required for his own use.

13.08.390 Public sewer construction—Special reimbursement agreements.

Where special conditions exist in the opinion of the city relating to any reimbursement agreement pursuant to the provisions of this chapter, the city may, either in addition to or in lieu of any of the provisions of this chapter, authorize a special reimbursement contract between the city and the person or persons constructing public sewerage facilities. Such special reimbursement agreement shall be made and entered into prior to the issuance of a permit for the work by the city.

13.08.400 Damaging sewer works prohibited.

No person, or persons, shall unlawfully, maliciously, willfully or, as the result of gross negligence on his or their part, break, damage, destroy, uncover, deface or tamper with any structure, facility, appurtenance or equipment which is a part of the sewage works.

13.08.410 Wastewater discharge permit requirement.

- A. No user categorized by the director as a significant industrial user shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit or, where applicable, a general permit from Ecology. An existing user newly categorized by the director as a significant industrial user that has filed a timely application pursuant to SMC 13.08.420 with Ecology, and whose application has not been found deficient by Ecology, may continue to discharge unless and until notified otherwise by Ecology or the director.
- B. The director may require all other users to apply for a wastewater discharge permit from Ecology, to provide proof to the director of having made this application, to meet the limits and requirements of this ordinance, or to implement best management practices at the direction of the director to carry out the purposes of this chapter. For example, a wastewater discharge permit may be required solely for flow equalization.
- C. Any failure to complete the required survey form, apply for and obtain a required permit, or violate the terms and conditions of a wastewater discharge permit, contract, local limit or BMP established by this chapter shall be deemed violations of this ordinance and subject the wastewater discharge permittee to the sanctions set out in SMC 13.08.920 through 13.08.946. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with any other provision of this chapter including enrollment in and payment of surcharges for high strength waste and capacity charges.

13.08.420 Wastewater discharge permitting—Existing connections.

Within 180 days of notice by the city or Ecology that a state waste discharge permit is required for discharge, a user shall submit a state waste discharge permit application to the city for transmittal to Ecology; and by the earliest practicable date, the user shall submit a copy of the permit to the city.

13.08.430 Wastewater discharge permitting—New connections.

Persons wishing to discharge non-domestic wastewater must first complete either a survey form (if they do not expect a permit is needed) or a permit application. Any user identified by the director through the survey as an SIU or otherwise require a state waste discharge permit must file a permit application with Ecology and provide proof of such application to the director. Applications for wastewater discharge permits, in accordance with SMC 13.08.440, must be filed at least 90 days prior to the desired date of discharge, and the discharge permit obtained prior to commencing discharge unless Ecology provides written notification that they do not believe a state waste discharge permit is required.

13.08.440 Wastewater discharge permit application contents.

- A. All users required to obtain a wastewater discharge permit must apply using the form provided by Ecology. Users eligible for coverage under a general permit may request such coverage using an industry specific form if one has been developed (see SMC 13.08.450). Users for which Ecology has declined to issue a permit, but for which the director believed need pretreatment controls, must supply the director the following information that is relevant to the users operation.
 - 1. Identifying information.

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- a. The name and physical address of the facility, the names of the operator/facility manager and owner, and the name and address of the point of contact.
 - b. A description of activities, facilities, and plant production processes on the premises;
 2. A list of any environmental control permits (for example, air emission permits) held by or for the facility.
 3. A description of operations and facilities including:
 - a. A brief description of the operations, average rate of production, and industrial classification (NAICS codes) of the operation(s) conducted on site.
 - b. The number and type of employees and proposed or actual hours of operation.
 - c. The type, amount, rate of production, and process used for each product produced.
 - d. The type and amount of raw materials used (average and maximum rates).
 - e. The raw materials and chemicals to be routinely stored at the facility (including products in rail cars and tank trucks located on site).
 - f. The types of wastes generated on a routine and periodic basis.
 - g. The times and durations when wastes will be discharged.
 - h. A schematic process diagram showing each process step, waste stream, treatment step, internal recycle, and point of discharge to the POTW. This diagram should identify which streams are subject to categorical standards.
 - i. 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.
 - j. The sampling locations and provisions for monitoring discharges.
 - k. Whether plans for wastewater facilities under Chapter 173-240 WAC have been developed, and their approval status (engineering report, plans and specifications, and an operations and maintenance manual).
 4. Flow data. The average daily and maximum daily flow, in gallons per day, to the POTW from each waste stream. Information shall be complete enough to allow use of the combined wastestream formula per SMC 13.08.220(C) (and 40 CFR 403.6(e)) where applicable.
 5. Pollutant data.
 - a. The categorical pretreatment standards applicable to each regulated process.
 - b. The results of sampling and analysis identifying the nature and concentration, (and mass where required by the standard or the Director), of regulated pollutants in the discharge from each regulated process.
 - c. The estimated peak instantaneous, daily maximum, and long-term average discharge concentrations (and mass) based on the sampling results.
 6. Sampling data to show samples are:
 - a. Representative of daily operations.
 - b. Taken just downstream from pretreatment facilities if such exist, or just downstream of the regulated process(es) if no pretreatment exists.
 - c. Collected as required by SMC 13.08.691.
 - d. Analyzed according to SMC 13.08.691.
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7. Information confirming BMPs. Where standards specify a BMP or pollution prevention alternative, the user must include the information needed by the director or the applicable standard to determine whether BMPs are (or will be) implemented.
 8. Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge must include new sampling showing (continued) absence of the pollutant in the raw wastewater and satisfying SMC 13.08.640(B).
 9. Any request to be covered by a general permit shall satisfy SMC 13.08.450 (below).
 10. Any other information deemed necessary by the Director to evaluate the situation and prepare a discharge permit.
- B. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision. The director shall be held harmless for delays caused by returned applications.

13.08.450 General permits.

- A. The director may use general permits to control discharges to the POTW from all users that are not SIUs or otherwise permitted by Ecology. Significant users covered by a general permit will be those that the director finds:
1. Involve the same or substantially similar types of operations.
 2. Discharge the same types of wastes.
 3. Require the same effluent limitations or BMPs.
 4. Require the same or similar monitoring (or do not require monitoring).
 5. Are more appropriately controlled under a general permit.
 6. Are not subject to production-based standards, mass limits, or require use of the combined wastestream formula to calculate limits.
- B. To be covered by the general permit, the user must file a written request for coverage. The request must identify contact information, the general permit under which coverage is requesting, and whether any activities other than those for which the general permit were developed are generating wastewater at the facility. The user must also identify where any wastes covered by the general permit are discharged. If the general permit allows a monitoring waiver, the applicant must certify they are eligible for the waiver. The user must also provide any other information the director has requested to properly evaluate the situation.
- C. The director will retain the following for three years after the expiration of the general permit: A copy of the general permit, the fact sheet, each user's request for coverage, and the potw's determination to extend coverage to each user.

13.08.460 Application signatories and certifications.

- A. All survey forms, wastewater discharge permit applications, and user reports must be signed by an authorized representative of the user and contain the certification statement in SMC 13.08.695(A).
- B. Users shall submit a new authorization if the designation of an authorized representative is no longer accurate. This includes when a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company. The user must submit the new authorization prior to or with any reports to be signed by the new authorized representative.
- C. A facility determined to be a non-significant categorical industrial user by Ecology pursuant to SMC 13.08.140 (FF)(3) must annually submit the signed certification statement found at SMC 13.08.695(B).

13.08.470 Wastewater discharge permit decisions.

Any facility identified by the director as potentially being a significant industrial user, must prepare a state waste discharge permit application, obtain the endorsement of the director on that application, and submit this application to Ecology for disposition. The facility shall provide the director any response received from Ecology. The director will determine during this process whether or not to require a contract or impose any other local conditions as authorized by this chapter and may deny or condition any application for a wastewater discharge permit. In addition to conditions imposed by Ecology by letter or permit, the director may require additional safeguards, reports (including plans under Chapter 173-240 WAC), information, or fees for extra strength or capacity as provided for by this chapter.

13.08.510 Wastewater discharge permit duration.

The director may require any discharger to provide a copy of any application or reapplication of a state waste discharge permit whenever such documents are due to Ecology or have been submitted. Where a permit has not been required, or when it does not cover constituents of concern to the POTW, including flow and conventional pollutant strength and loadings, the director may require a discharger to enter into a contract for services stipulating those conditions necessary to protect the POTW and fairly compensate the director for wastewater services being provided to that person.

13.08.520 Wastewater discharge contract contents.

Wastewater discharge contracts will include conditions the director deems reasonably necessary to carry out the goals of the pretreatment program (SMC 13.08.110), federal and state regulations, and the requirements of this chapter.

- A. Wastewater discharge contracts may contain:
1. The permit issuance date, expiration date, and effective date.
 2. A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with SMC 13.08.550, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.
 3. Effluent limits, including best management practices, based on applicable pretreatment standards and requirements to apply AKART (see SMC 13.08.230(I)).
 4. The pollutants to be monitored, and specific monitoring requirements. This includes the sampling location(s), sampling frequencies, and sample types consistent with federal, state, and local law. (See SMC 13.08.230(J)).
 5. Requirements to submit certain reports (as reflected in SMC 13.08.610 through 13.08.695), provide various notifications, keep records, and implement best management practices,
 6. A statement of applicable 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 applicable federal, state, or local law.
 7. Requirements to control slug discharges, including to develop, update, and implement slug discharge control plans (find required content in SMC 13.08.330) where the director determines such plans are important to preventing accidental, unanticipated, or non-routine discharges.
 8. Any monitoring which has been conditionally waived by the director according to SMC 13.08.640(B) but which automatically applies at any time the requirements of the conditional waiver are not met.
 9. Reapplication or renewal requirements.

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- B. Wastewater discharge permits may contain, but need not be limited to, the following conditions:
1. Pretreatment facilities and measures required by SMC 13.08.310, 13.08.320 and 13.08.926.
 2. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.
 3. Requirements to install pretreatment technology, pollution controls, or to construct appropriate containment devices to reduce, eliminate, or prevent the introduction of pollutants into the treatment works, ground, or stormwater.
 4. Requirements to develop and implement of waste minimization plans to reduce the amount of pollutants discharged to the POTW.
 5. Requirements to pay charges or fees for discharge to the POTW including high strength, impact and capacity charges.
 6. Requirements to install and maintain inspection and sampling facilities and equipment, including flow measurement devices.
 7. Notice 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. And
 8. Other conditions as deemed appropriate by the director to ensure compliance with this chapter, and state and federal laws, rules, and regulations.

13.08.530 Contract issuance process.

- A. Public Notice. The director may require users to follow the procedures for public notice found in SMC 13.08.230(G) and 13.08.230(H). The director shall consider and respond to public input as appropriate prior to issuance of a permit. The director will arrange a public meeting if there is sufficient interest, or may use community forums such as council meetings to fulfill the requirements for public involvement.
- B. Permit Appeals. Users must petition Ecology to challenge the terms of any state waste discharge permit. For any contract, users may petition the director to reconsider the terms of a contract at any time after it is signed by the parties. Such a petition will not stay the terms of the contract.
1. In its petition, the appealing party must indicate the wastewater discharge contract provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge contract.
 2. If the director fails to act within 30 days, a request for reconsideration shall be deemed to be denied. Decisions as to whether to require an Ecology permit as a condition of discharge, or to require a wastewater discharge contract, to reconsider a wastewater discharge contract, or to modify a wastewater discharge contract shall be considered final administrative actions for purposes of judicial review.
 3. Aggrieved parties seeking judicial review of the final administrative wastewater discharge contract decision must do so by filing a complaint with the Superior Court of Skamania County within 30 days from the date of the later of Ecology or the director's decision or Ecology or the director's response to a request for reconsideration.

13.08.540 Wastewater discharge permit modification.

The director may require the user to apply to Ecology for a modification to its wastewater discharge permit for good cause, including, but not limited to, the following reasons:

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- A. To incorporate any new or revised federal, state, or local pretreatment standards or requirements including new or revised local limits.
 - B. To address new or changed operations, processes, production rates, waste streams, or changes in water volume or character.
 - C. To reflect conditions at the POTW requiring an authorized discharge to be reduced or curtailed. Such requirements may be either temporary or permanent.
 - D. Based on information indicating that a permitted discharge poses a threat to the city's POTW or staff, the receiving waters, or to violate a prohibition of this chapter.
 - E. To address violations of any terms or conditions of the wastewater discharge permit;
 - F. To address misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required report.
 - G. To incorporate revisions based on a variance from categorical pretreatment standards approved pursuant to 40 CFR 403.13.
 - H. To correct typographical or other errors in the wastewater discharge permit.
 - I. To reflect a transfer of the facility ownership or operation to a new owner or operator as required under SMC 13.08.550.

13.08.550 Wastewater discharge permit transfer.

Wastewater discharge permits may be transferred by Ecology to a new owner or operator consistent with the process described in the permit, and subject to at least 30 days advance notice to the director and the director approves the wastewater discharge permit transfer. Where the permittee also has a contract with the director, they must negotiate that contract at this time. Failure to provide advance notice of a transfer renders the wastewater discharge contract void as of the date of facility transfer. The notice to the director must include a written certification by the new owner or operator which:

- A. States that the new owner and/or operator have no immediate intent to change the facility's operations and processes.
- B. Identifies the specific date on which the transfer is to occur. And
- C. Acknowledges full responsibility for complying with the existing wastewater discharge contract, and willingness to enter into such contract under the same terms.

13.08.560 Wastewater discharge permit revocation.

The director may revoke and require renegotiation of a wastewater discharge contract for good cause, including, but not limited to, when a user has:

- A. Failed to notify the director of significant changes to the wastewater prior to the changed discharge.
- B. Failed to provide prior notification to the director of changed conditions pursuant to SMC 13.08.650.
- C. Misrepresented or failed to fully disclose all relevant facts in the wastewater discharge permit application.
- D. Falsified self-monitoring reports or tampered with monitoring equipment.
- E. Refused to allow the Director timely access to the facility premises and records.
- F. Failed to meet effluent limitations or permit conditions.
- G. Failed to pay applicable fines or sewer charges.

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- H. Failed to meet compliance schedule deadline dates.
 - I. Failed to complete a wastewater survey or wastewater discharge permit application.
 - J. Failed to provide advance notice of the transfer of business ownership.
 - K. Violated any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this chapter.
 - L. Ceased operations; or
 - M. Transferred business ownership.

Wastewater discharge contracts issued to a user are void upon the issuance of a new wastewater discharge contract to that user.

13.08.570 Wastewater discharge contract extension or reissuance.

A user with an expiring wastewater discharge contract shall apply for a new or revised wastewater discharge contract by submitting a complete permit application, in accordance with SMC 13.08.450, a minimum of 90 days prior to the expiration of the user's existing wastewater discharge contract.

13.08.610 Baseline monitoring reports.

- A. Users subject to categorical standards who must submit a "baseline monitoring report" to Ecology must submit a duplicate copy at the same time to the director. This report must contain the information listed in paragraph B, below. Failure to provide this report to the director, or to include the requisite content, shall be a violation of this chapter.
- B. The baseline monitoring report shall include the following information:
 - 1. All information required in SMC 13.08.450(A)(1) through 13.08.450 (A)(7).
 - 2. Additional conditions for existing sources measuring pollutants.
 - a. Users shall take a minimum of one representative sample to compile the data for the baseline monitoring report.
 - b. Users shall take samples immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If the user mixes other wastewaters with the regulated wastewater prior to pretreatment, the user must provide the flows and concentrations necessary to apply the combined wastestream formula of SMC 13.08.220(C) and 40 CFR § 403.6(e). Where the user wants an alternate concentration or mass limit, and it is allowed by federal rules at § 403.6(e), the user shall propose the adjusted limit and provide supporting data to the control authority (Ecology or city).
 - c. Sampling and analysis shall be performed in accordance with SMC 13.08.691.
 - d. The director may allow the report to use only historical data if the data is good enough to allow the evaluation of whether (and which) industrial pretreatment measures are needed;
 - e. The baseline report shall indicate the time, date, and place of sampling, methods of analysis. The user shall certify that the sampling and analysis presented is representative of normal work cycles and expected pollutant discharges to the POTW.
 - 3. Compliance Certification. A statement, reviewed by the user's authorized representative as defined in SMC 13.08.140(C) and certified by a qualified professional, such as a professional engineer 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 steps are required to meet the pretreatment standards and requirements.

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4. Compliance Schedule. While new sources must install the treatment required to meet the pretreatment standards prior to operation, Existing sources may be granted a compliance schedule where they must provide additional pretreatment and/or O&M to meet the pretreatment standards. In such cases, the user shall propose the shortest schedule by which they can provide the additional pretreatment and/or O&M. The completion date which the user proposes in this schedule may not be later than the compliance date established for the applicable pretreatment standard. Any compliance schedule authorized pursuant to this section must also meet the requirements set out in SMC 13.08.620.
 5. Signature and Report Certification. All baseline monitoring reports must be certified in accordance with SMC 13.08.695(A) and signed by an authorized representative as defined by SMC 13.08.140(C).

13.08.620 Compliance schedule progress reports.

Where users subject to categorical standards qualify for a compliance schedule, they shall provide this schedule to the director and Ecology. Compliance schedules proposed by Existing Sources according to SMC 13.08.610(C)(4) shall:

- A. Contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- B. No increment referred to above shall exceed nine months;
- C. The user shall submit a progress report to the Director no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- D. In no event shall more than nine months elapse between such progress reports to the director.

13.08.630 Reports on compliance with categorical pretreatment standard deadline.

Both existing sources and new sources must submit a report to the director and Ecology on whether compliance has been initially achieved. For existing sources, the report is due 90 days after the date applicable categorical standards give as the final compliance date. For a new source, the report is due 90 days after starting to discharge to the POTW.

In both cases, the report must contain the information described in SMC 13.08.450(A)(3) through 13.08.450(A)(6). For existing sources, it must also contain the compliance certification of 13.08.610(C)(3) and, if needed, the compliance schedule described in 13.08.610(C)(4). Users subject to equivalent mass or concentration limits, as allowed by SMC 13.08.220, must include a reasonable measure of their long-term production rate. Other users subject to standards based on a unit of production (or other measure of operation) must include their actual production during the sampling period. All compliance reports must be signed and certified in accordance with SMC 13.08.695(A).

13.08.640 Periodic compliance reports.

- A. The director may require any user to provide duplicate reports as required by Ecology. Where the director develops BMPs for an industry sector, or issues a contract to regulate pollutants not covered by a state waste discharge permit, the director may specify the necessary minimum sampling and reporting frequencies and include applicable requirements in contracts or BMPs. Significant industrial users (SIUs), except those recognized as "middle tier" users under SMC 13.08.640(C), must:

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1. Report at least twice a year, in June and December unless otherwise specified.
 2. Report the flows and concentrations of regulated pollutants in all discharges subject to pretreatment standards.
 3. Report average and maximum daily flows for the reporting period and identify where flow estimates are used.
 4. Include the documentation needed to show compliance with applicable BMPs, pollution prevention alternatives, maintenance, treatment, or record keeping requirements.
- B. Users must sign and certify all periodic compliance reports in accordance with SMC 13.08.695(A).
- C. Users must take wastewater samples which are representative of their range of discharge conditions and of any discharge not disclosed in their permit application. Users must properly operate, clean, and maintain sampling and flow metering facilities and devices and ensure they function properly. The director may not allow user claims that sampling results are unrepresentative due to a user's failure to meet this requirement.
- D. Users subject to the reporting requirements in this section must report any additional monitoring which might determine compliance with permit requirements. This includes any additional monitoring of regulated pollutant at their respective effluent monitoring locations using procedures prescribed in SMC 13.08.691. In such cases, the results of this monitoring shall be included in periodic monitoring reports.
- E. Users that send electronic (digital) documents to the city to satisfy the requirements of this section must meet all state and federal electronic signature requirements: Electronic data shall be in the format required by the director. The director may also require reporting in both digital and traditional format.

13.08.650 Reports of changed conditions.

Each user must notify the director of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater from that described in either an industrial user survey form, state waste discharge permit application, or by written correspondence to the city. This notification must be made at least 30 days before the desired change and be sent to both the director and Ecology. In such cases:

- A. Either Ecology or the director may require the user to submit whatever information is needed to evaluate the changed condition. The director may also require a new or revised wastewater discharge permit application under SMC 13.08.450.
- B. The director may issue, reissue, or modify a wastewater discharge contract applying the procedures of SMC 13.08.510 through 13.08.570 in response to a user's notice under this section.

13.08.660 Reports of potential problems.

- A. Any user which has any unusual discharge that could cause problems to the POTW must immediately notify the director by telephone of the discharge. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user to control and curtail the discharge. Such notification does not authorize the discharge, and all reasonable steps to halt or prevent the discharge must be made. However, failure to make such notification is a separate and distinct violation of this chapter from the discharge itself. Such discharges may include spills, slug loads, accidental discharges, or other discharges of a non-routine, episodic nature. Problems to the POTW which require reporting under this section include violating pretreatment prohibitions, treatment standards, or other requirements of SMC 13.08.210 through 13.08.260 such as vapor toxicity and explosivity limits, or cause interference with the collection system or treatment works, or pass through the POTW.
- B. Within five days following such discharge, the user shall submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be

incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

- C. Regardless of whether the user has been required to submit a slug discharge control plan (per SMC 13.08.330), all users required to have a contract or permit shall post notice in a prominent location advising employees who to call at City Hall to inform the director of a potential problem discharge (13.08.660(A)). Users shall ensure that all employees who may cause or witness such a discharge are advised of the emergency notification procedures.
- D. All users must immediately notify the Director of any changes at their facility which might increase their potential for a slug discharge. This includes increasing the volume of materials stored or located on site which, if discharged to the POTW, would cause problems. Users required to prepare a slug discharge control plan under SMC 13.08.330 shall also modify their plans to include the new conditions prior to, or within two days after making such changes.
- E. These requirements apply in addition to any requirements of an Ecology permit.

13.08.670 Reports from unpermitted users.

All users not required to obtain a wastewater discharge permit or general permit shall provide appropriate reports to the director as the director may require. This includes periodically completing and signing industrial user surveys or certifying compliance with the requirements of any BMP program or grease remediation program.

13.08.680 Notice of violation/repeat sampling and reporting.

If sampling performed by a user by either an Ecology permit or city contract indicates a violation, the user must notify the director within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the director within 30 days after becoming aware of the violation. The director may waive the repeat sampling requirement where the city has sampled the effluent for the pollutant in question prior to the user obtaining sampling results.

13.08.690 Notification of the discharge of hazardous waste.

- A. Any user who discharges any substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261, or Chapter 173-303 WAC must also comply with the following requirements:
 - 1. Notify the director, Ecology's permit contact, the EPA regional waste management division director, and state hazardous waste authorities, in writing, of the discharge. Maintain a copy of this notification and include it in all subsequent permit application or re-applications under this chapter.
 - 2. Include the following information in the notification:
 - a. The name of the hazardous waste as found in 40 CFR Part 261,
 - b. The EPA hazardous waste number,
 - c. The type of discharge (continuous, batch, or other).
 - 3. If the discharge totals more than 220 pounds in any month, also provide:
 - a. The hazardous constituents contained in the wastes;
 - b. An estimate of the mass and concentration of hazardous constituents in the wastestream discharged during that calendar month; and
 - c. An estimate of the mass of constituents in the wastestream expected to be discharged during the following 12 months.

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4. This notice shall be repeated for new or increased discharges of substances subject to this reporting requirement.
 5. All notifications must take place prior to discharging a substance for which these reporting requirements apply. If this is not possible, the notice must be provided as soon after discharge as practical and describe why prior notice was not possible.
 6. Users must provide notifications under this paragraph only once to EPA and the State for each hazardous waste discharged. However, all of the information of these notices shall be repeated in each new permit application submitted under this chapter.
 7. This requirement does not relieve the user from requirements to provide other notifications, such as of changed conditions under SMC 13.08.650, or applicable permit conditions, permit application requirements, and prohibitions.
 8. The notification requirements in this section do not apply to pollutants for which routine monitoring and reporting is required in a permit under this chapter.
- B. Users must report all discharges of more than 33 pounds per month of substances which, if otherwise disposed of, would be hazardous wastes. Users must also report any discharge of acutely hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Subsequent months during which the user discharges more of a hazardous waste for which notice has already been provided do not require another notification to EPA or the state, but must be reported to the director.
 - C. If new regulations under RCRA describe additional hazardous characteristics or substances as a hazardous waste, the User must provide notifications under paragraphs A, if required by paragraph B within 90 days of the effective date of such regulations.
 - D. For any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical and shall describe that program and reductions obtained through its implementation.
 - E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a contract issued thereunder, an Ecology issued permit, or any applicable federal or state law.

13.08.691 Sampling—Analytical requirements and collection protocols.

- A. All pollutant sampling and analyses required under this ordinance shall conform to the most current version of 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for a pollutant, or the director determines that the Part 136 sampling and analytical techniques are inconsistent with the goal of the sampling, the Director may specify an analytical method. If neither case applies, Users shall use validated analytical methods or applicable sampling and analytical procedures approved by EPA.
 - B. Sampling and analysis reports performed by the director will be supplied to the user. The user may dispute the accuracy of the sample and provide an alternative sampling report within 21 days of receipt of the city's findings. If no alternative sample is provided within the 21-day period, it shall constitute an acknowledgement by the user that the sampling and analysis performed by the director is a valid representation of the pollutants in their wastewater.
 - C. Users must ensure all samples they collect to satisfy sampling requirements under this chapter are representative of the range of conditions occurring during the reporting period. Users must also ensure that, when specified, samples are collected during the specific period.
 1. Users must use properly cleaned sample containers appropriate for the sample analysis and sample collection and preservation protocols specified in 40 CFR Part 136 and appropriate EPA guidance.
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2. Users must obtain samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds using grab collection techniques.
 3. For certain pollutants, Users may composite multiple grab samples taken over a 24-hour period. Users may composite grab samples for cyanide, total phenols, and sulfides either in the laboratory or in the field, and may composite grab samples for volatile organics and oil & grease in the laboratory prior to analysis.
 4. For all other pollutants, users must employ 24-hour time-proportional composite samplers unless the director authorizes or requires an alternative sample collection method.
 5. The director may authorize composite samples for parameters unaffected by the compositing procedures, as appropriate.
 6. The director may require grab samples either in lieu of or in addition to composite sampling to show compliance with instantaneous discharge limits.
 7. In all cases, users must take care to ensure the samples are representative of their wastewater discharges.
 8. Users sampling to complete baseline monitoring and 90-day compliance reports required by SMC 13.08.610 and 13.08.630, must satisfy some specific requirements. These reports require at least four grab samples for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds. Users may composite samples prior to analysis if allowed in 13.08.691(C)(3). Where historical sampling data exists; the Director may also authorize fewer samples.
 9. For periodic monitoring reports, (SMC 13.08.640), the director may specify the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.
 10. The user shall record instantaneous and 24-hour flow (from totalizer) at the time each sample is collected, and provide said flow information to the director. If a flowmeter is not available, the city will use water flow information from their records to determine corresponding load (in pounds per day).

13.08.693 Date of receipt of reports.

The director will credit written reports as having been submitted on the date of the post mark when mailed through the United States Postal Service. Reports delivered in any other manner will be credited as having been submitted on the business day received.

13.08.694 Record keeping.

Users subject to reporting requirements of this chapter shall retain the below records for all monitoring required by this ordinance and for any additional monitoring which could be used to satisfy minimum monitoring requirements. Users must make these records available for inspection and copying at the location of the discharge. Users must similarly maintain documentation associated with any best management practices required under authority of SMC 13.08.240(C). Monitoring records shall include at least:

- A. The time, date, and place of sampling;
 - B. The sampling and preservation methods used;
 - C. The person taking the sample, and persons with control of the sample prior to analysis;
 - D. The person performing the analyses and the date the analysis was completed;
 - E. The analytical techniques or methods used; and
 - F. The results of analysis.
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Users are encouraged to retain quality control and quality assurance information provided by the laboratory and submit this information in routine reporting. This information also has value in the event that the sample data is called into question. For analytes for which Washington State requires use of a certified/accredited laboratory, Users must maintain the scope of accreditation for laboratories performing any analyses for them.

Users shall maintain the above records for at least three years, until any litigation concerning the user or the city is complete, or for longer periods when the user has been specifically notified of a longer retention period by the director.

13.08.695 Certification statements.

A. The following certification statement must be signed by an authorized representative as defined by SMC 13.08.140(C) and included when submitting:

1. An industrial user survey or update to a survey to reflect changed conditions.
2. A permit (re-)application in accordance with SMC 13.08.460;
3. A dispute of any city-provided sample performed under SMC 13.08.691,
4. A baseline monitoring report under SMC 13.08.610(B)(5),
5. A report on compliance with the categorical pretreatment standard deadlines under SMC 13.08.630;
6. A periodic compliance report required by SMC 13.08.640 (A)—(D), or
7. An initial request to forego sampling of a pollutant based on SMC 13.08.640(B)(4)

"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."

B. Certification of Pollutants Not Present. Users that have an approved monitoring waiver based on SMC 13.08.640(B) must also include the following certification statement in each report. This statement certifies that there has been no increase in the pollutant in its wastestream due to activities of the user:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to activities at the facility since filing of the last periodic report under SMC 13.08A.640(A)."

13.08.710 Right of entry—Inspection and sampling.

The director shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. users shall allow the director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- A. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the director will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The director shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

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- C. Users shall provide full access to the director to use any monitoring facilities and utilities available or required in accordance with SMC 13.08.310 and 13.08.320 (B) and (C) to confirm that the standards or treatment required for discharge to the sewer are being met.
 - D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the director and shall not be replaced. The costs of clearing such access shall be borne by the user.
 - E. Any unreasonable delay in allowing the director full access to the user's premises and wastewater operations shall be a violation of this chapter.

13.08.720 Search warrants.

The director may seek issuance of a search warrant from the Skamania County Superior Court. Such warrants may be secured when:

- A. The director has been refused access or is unable to locate a representative who can authorize access to a building, structure, or property, or any part thereof, and has probable cause that a violation of this chapter is occurring on the premises;
- B. The director has been denied access to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this chapter or any permit or order issued hereunder; or
- C. The director has cause to believe there is imminent endangerment of the overall public health, safety and welfare of the community by an activity on the premises.

13.08.810 Confidential information.

Generally, information submitted to demonstrate compliance with pretreatment standards and requirements will be freely available to the public. Users may have certain information, however, withheld as confidential if the following process is followed.

- A. When a user submits information to the director, or provides information to inspectors, Users may request that specific information be maintained as confidential. Users must promptly identify the specific information in writing, and describe why the release would divulge information, processes, or methods of production entitled to protection as trade secrets or confidential business information under applicable state or federal laws.
- B. The director shall review and approve or deny such requests. When approved, the information shall not be available as public records and shall be marked confidential.
- C. All other information submitted to the director and obtained from the director's oversight shall be available to the public subject to the city records review policy.
- D. Information held as confidential may not be withheld from governmental agencies for uses related to the NPDES program or pretreatment program, or in enforcement proceedings involving the person furnishing the report.
- E. Federal rules prevent wastewater constituents and characteristics and other effluent data, as defined by 40 CFR 2.302 from being recognized as confidential information.

13.08.910 Publication of users in significant noncompliance.

- A. Publishing: The director must annually publish a list of the users which, at any time during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The

list will be published in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW.

B. Definition: The term significant noncompliance means:

1. Any violation of a pretreatment standard or requirement including numerical limits, narrative standards, and prohibitions, that the director determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public.
2. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, including risk of noncompliance with city's NPDES permit, or has resulted in the director's exercise of its emergency authority to halt or prevent such a discharge.
3. Any violation(s), including of best management practices, which the director determines will adversely affect the operation or implementation of the local pretreatment program.
4. Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter taken during a rolling six-month period exceed, by any magnitude, a numeric pretreatment standard or requirement, including instantaneous limits of SMC 13.08.210 through 13.08.260.
5. Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of wastewater measurements taken for each pollutant parameter during a rolling six-month period equal or exceed the product of the numeric pretreatment standard or requirement, (including instantaneous limits, as defined by SMC 13.08.210 through 13.08.260), multiplied by the applicable criteria. Applicable criteria are 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH.
6. Failure to meet, within 90 days 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.
7. Failure to provide any required report within 45 calendar days after the due date. This includes initial and periodic monitoring reports, and reports on initial compliance and on meeting compliance schedules.
8. Failure to accurately report noncompliance.

C. Applicability: The criteria in paragraphs 1—3 above are applicable to all users, whereas the criteria in paragraphs 4—8 are only applicable to SIUs.

13.08.920 Administrative enforcement remedies.

In administering the city pretreatment program, the director is obliged to follow the city pretreatment program's approved procedures. In response to non-compliance with any requirement of this chapter, the director shall apply its enforcement response plan, which is a part of these approved procedures. This plan ensures that the application of remedies provided for in SMC 13.08.920 through 13.08.946 is appropriate to the violation, and consistent with the treatment of other users. Any person may review or obtain a copy (for a nominal charge) of the enforcement response plan by contacting the director or city.

13.08.921 Notification of violation.

The director may serve a written notice of violation on any user that the director finds has violated any provision of this chapter, including terms or requirements of a permit, order, or a pretreatment standard or requirement. In all cases in this chapter, a continuation of a violation of a provision of this chapter is a "violation." Users shall, in response to a notice of violation, provide the director a written explanation of the violation, its cause, and a corrective action plan within thirty (30) days of the receiving this notice. Users submitting plans to

correct noncompliance must include the specific actions they will take to correct ongoing and prevent future violations at the soonest practicable date. The director's acceptance of a plan does not relieve a user of liability for any violations. The director may also take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

13.08.922 Show cause hearing.

The director may propose actions in response to a violation of any provision of this ordinance, including a provision of a permit, order, or a pretreatment standard or requirement. The director may order a user in violation to appear at a date, time, and location set by the director to show why the proposed enforcement action should not be taken. The director will notify the user of the violation, the proposed action, the rationale, and the users rights and obligations to provide evidence why the proposed enforcement action should not be taken, and to provide its support for any alternative it proposes at this meeting. This notification shall be served personally or by registered or certified mail (return receipt requested) at least 20 days prior to the hearing. Such notice may be served on any authorized representative of the user as defined in SMC 13.08.140(C). A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

13.08.923 Administrative orders.

- A. Consent Orders. The director may enter into a consent order or other voluntary agreement to memorialize agreements with users violating any requirement of this chapter. Such agreements must include the specific action(s) required and date(s) they are to be completed to correct the noncompliance. Such documents must be constructed in a judicially enforceable manner, and have the same force and effect as administrative orders issued pursuant to this section.
- B. Compliance Orders. The director may issue a compliance order to any user which has violated any provision of this chapter including a requirement of a permit, order, or a pretreatment standard or requirement. The compliance order may direct that the user come into compliance within a specified time, install and properly operate adequate treatment facilities or devices, or take such measures as the Director finds are reasonably necessary. These measures may include additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, or relieve a user of liability for any violation, including a continuing violation. If the user does not come into compliance within the time provided, sewer service may be discontinued. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.
- C. Cease and Desist Orders. When the director finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Director may issue an order to the user directing it to cease and desist all such violations and directing the user to:
 - 1. Immediately comply with all requirements; and
 - 2. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

13.08.925 Administrative fines.

- A. When the director finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may fine such user in an amount not to exceed ten thousand dollars. Such fines

shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

- B. The director may add the costs of any emergency response, additional monitoring, investigation, and administrative costs related to the noncompliance and the director's response to the situation to the amount of the fine.
- C. The director will consider the economic benefit enjoyed by a user as a result of the noncompliance in cases where there appears to have been a monetary benefit from not complying. In such cases, the director shall ensure that fines, to the maximum amounts allowable, exceed the benefit to the user from the noncompliance.
- D. Unpaid charges, fines, and penalties shall, at 30 calendar days past the due date, be assessed an additional penalty of one percent of the unpaid balance, and interest shall accrue thereafter at a rate of one percent per month. After 30 days the city shall be authorized to file a lien against the user's property for unpaid charges, fines, and penalties.
- E. Users desiring to dispute such fines must file a written request for the Director to reconsider the fine along with full payment of the fine amount within 15 working days of being notified of the fine. Where a request has merit, the director may convene a hearing on the matter. In the event the user's appeal is successful, the director shall rebate the difference between the initial and final penalty amounts to the user.
- F. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

13.08.926 Emergency discontinuance of service.

- A. The director may immediately and effectively halt or prevent any discharge of pollutants to the POTW which reasonably appear to present an imminent endangerment to the health or welfare of persons. In such cases, the director will provide the user advance notice if possible, but shall not delay a response to imminent endangerment.
- B. The director may halt or prevent any discharge to the POTW which presents or may present an endangerment to the environment, including risk of noncompliance with city's NPDES permit, or which threatens to interfere with the operation of the POTW (including the collection system and pump stations). In such cases, the director shall attempt to provide not only notice to the affected user(s), but the opportunity to respond.
- C. Any user causing the director to exercise the emergency authorities provided for under this section shall be responsible for reimbursement of all related costs to the city.

13.08.927 Emergency suspensions.

The director may immediately suspend a user's discharge (or threatened discharge) when it reasonably appears to present a substantial danger to the health or welfare of persons. In such cases, the director will first provide informal notice to the user. The director may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, a danger to the environment.

- A. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. If a user fails to immediately comply voluntarily with the suspension order, the director may take such steps as deemed necessary to protect the public and its interest in the sewer system. Remedies available to the director include immediately severing the sewer connection, at the users expense, turning off pump stations downstream of the user, and partnering with law enforcement. The director may not allow the user to recommence its discharge until the user has demonstrated to the

satisfaction of the director that the situation warranting the suspension has been properly addressed and any proposed Termination proceeding has been resolved.

- B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence. Users shall submit this report to the director prior to the date of any show cause or termination hearing under SMC 13.08.923 and 13.08.928.

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

13.08.928 Termination of discharge.

Any user who violates the following conditions is subject to having the privilege of discharging to the public sewer system withdrawn:

- A. Discharge of non-domestic wastewater without a permit, including:
 - 1. Where the appropriate permit has not been requested;
 - 2. Where the appropriate permit has not yet been issued; or
 - 3. Where the permit has been denied or revoked based on the provisions of SMC 13.08.560 (Permit Revocation).
- B. Violation of permit terms and conditions including:
 - a. Exceeding any permit limit;
 - b. Failing to meet other pretreatment standards or requirements;
 - c. Violating any prohibition; or
 - d. Failing to properly monitor and report discharges or changed conditions.
- C. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; (whether subject to a permit or not); or
- D. Violation of the pretreatment standards and requirements in SMC 13.08.210 through 13.08.260, including failure to satisfy industrial user survey requirements.

When the director determines this remedy is necessary and appropriate to fulfill the intentions of this chapter, such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under SMC 13.08.923 why the proposed action should not be taken. Exercise of this option by the director shall not be a bar to, or a prerequisite for, taking any other action against the user.

13.08.931 Injunctive relief.

The director may seek injunctive relief when a user has violated, or continues to violate a provision of this chapter, including a pretreatment standard or requirement, or a permit or order issued hereunder. In such cases, the director may petition the Superior Court of Skamania County through the city's 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 chapter on activities of the user. The director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

13.08.932 Civil penalties.

- A. A user which has violated, or continues to violate a provision of this chapter, including a pretreatment standard or requirement, or a permit or order issued hereunder shall be liable to the city for a maximum civil penalty of \$10,000.00 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- B. The director may recover reasonable attorneys' fees, court costs, and other expenses associated with any emergency response, enforcement activities, additional monitoring and oversight, and costs of any actual damages to the city.
- C. In determining the amount of civil liability, the court shall take into account all relevant circumstances. The director shall provide the court a recommended civil penalty amount, and its basis. This basis shall address, as available, the extent of harm caused, the magnitude and duration of the violation, any economic benefit gained, the timing of users actions and responses, corrective actions by the user, and the user's compliance history. The director will provide the range of penalty amounts its enforcement response plan suggests if it addresses the situation and provides such guidance. The director will provide any other facts the court requests, or the director believes important for the court to have to render a just determination.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, any other action the director may take to resolve noncompliance by a user.

13.08.933 Criminal prosecution.

- A. A user who willfully or negligently violates any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$10,000.00 per violation, per day, or imprisonment for not more than one year, or both.
- B. A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least \$1,000.00 or be subject to imprisonment for not more than one year, or both. This penalty shall be in addition to any other criminal charges or judicial remedies, including remedies for causing personal injury, endangerment, or destruction of public property available under state law.
- C. 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 chapter, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of not more than \$1,000.00 per violation, per day, or imprisonment for not more than one year, or both.
- D. In the event of a second conviction, a user shall be punished by a fine of not more than \$1,000.00 per violation, per day, or imprisonment for not more than one year, or both.

13.08.934 Remedies nonexclusive.

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

13.08.941 Penalties for late reports.

The director may assess a penalty of \$50.00 to any user for each day that a report required by this chapter, a permit or order issued hereunder is late. Penalties accrue beginning the fifth day after the report is due. The director's actions to collect late reporting penalties shall not limit the director's authority to initiate any other enforcement action.

13.08.942 Performance bonds.

The director may require a satisfactory bond, payable to the city, in a sum not to exceed a value determined by the director as necessary to assure the User will achieve consistent compliance with this chapter. The Director may require this bond as an enforcement response or as a prerequisite to issue or reissue a wastewater discharge permit. Any user who has failed to comply with any provision of this chapter, a previous permit or order issued hereunder, or any other pretreatment standard or requirement may be subject to this requirement. This bond may also be required of any category of user which has led to public burdens in the past regardless of the compliance history of the particular user. The city may use this bond to pay any fees, costs, or penalties assessed to the User whenever the Users account is in arrears for over 30 days. This includes the costs of cleanup of the site if the user goes out of business, sells the business to a person that does not first assume the bond, or goes bankrupt. Users may petition the director to convert their performance bond to a requirement to provide liability insurance, or to forego any such safeguard based on their performance. User may petition no more frequently than once in any twelve-month period.

13.08.943 Liability insurance.

The director may require any user to provide insurance if they previously failed to comply with any provision of this ordinance, a previous permit, or order issued hereunder, or any other pretreatment standard or requirement. The director may also require users in businesses which historically have left a public burden to clean up pollution to obtain this insurance, regardless of their compliance history. In such cases, Users must provide proof that the insurance is sufficient to cover any liabilities incurred under this chapter, including the cost of damages to the POTW and the environment caused by the user. The director may require users to provide the proof of such insurance either in response to non-compliance or prior to issuing or reissuing a wastewater discharge permit.

13.08.944 Payment of outstanding fees and penalties.

The director may decline to issue or reissue a wastewater discharge permit to any user who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this chapter, a previous permit or order issued hereunder.

13.08.945 Water supply severance.

The director may order water service to a user severed whenever a user has violated or continues to violate any provision of this chapter, a permit, or order issued hereunder, or any other pretreatment standard or requirement. Users wishing to restore their service must first demonstrate their ability to comply with this ordinance and pay the related costs of this action.

13.08.946 Public nuisances.

A violation of any provision of this chapter or a permit or order issued hereunder, or any other pretreatment standard or requirement, is hereby declared a public nuisance and shall be corrected or abated as directed by the

director. Any person(s) creating a public nuisance shall be subject to the provisions of SMC 8.60 governing such nuisances, including reimbursing the city for any costs incurred in removing, abating, or remedying said nuisance.

13.08.951 Upset.

- A. For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- B. An upset shall constitute an affirmative defense to punitive actions in response to noncompliance with categorical pretreatment standards (SMC 13.08.220 and SMC 13.08.230), but not local limits (SMC 13.08.240) when the requirements of paragraph (C), below, must be met.
- C. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - 1. An upset occurred and the user can identify the cause(s) of the upset.
 - 2. The facility was at the time being operated in a prudent and workman-like manner and was in compliance with applicable operation and maintenance procedures.
 - 3. Where the upset involved reduction, loss, or failure of its treatment facility (e.g. a power failure), the User controlled production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards until the facility was restored or an alternative method of treatment was provided.
 - 4. The user submitted the following information to the director within 24 hours of becoming aware of the upset. When initially provided orally, the User must have provided a written report within five days:
 - a. A description of the indirect discharge and cause of noncompliance;
 - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- D. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- E. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

13.08.952 Prohibited discharge standards.

A user will have an affirmative defense to an enforcement action brought against it for noncompliance with the prohibitions in SMC 13.08.210(A), and 13.08.210(B)(3)—(7) in certain cases. The user must be able to prove that it 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.

13.08.953 Bypass.

- A. For the purposes of this section,
 - 1. Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility.
 - 2. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- B. A user may allow a bypass to occur if it does not cause pretreatment standards or requirements to be violated and is for essential maintenance to assure efficient operation.
- C. Any other bypass must meet the following requirements:
 - 1. Users knowing in advance of the need for a bypass must submit prior notice to the director, at least ten days before the bypass wherever possible.
 - 2. Users must tell the director of any unanticipated bypass that exceeds applicable pretreatment standards within 24 hours of becoming aware of the bypass. Users must provide a written follow-up report within five days. The Director may waive the written report if the oral report was timely and complete. Unless waived, the written report must contain:
 - a. A description of the bypass (volume, pollutants, etc.).
 - b. What caused the bypass.
 - c. When, specifically, the bypass started and ended.
 - d. When the bypass is expected to stop (if ongoing).
 - e. What steps the User has taken or plans to take to reduce, eliminate, and prevent the bypass from reoccurring.
- D. Bypass.
 - 1. Bypass is prohibited, and the director may take an enforcement action against a user for a bypass, unless:
 - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - c. The user submitted notices as required under paragraph (C) of this section.
 - 2. The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the three conditions listed in paragraph (D)(1) of this section.

13.08.961 Pretreatment charges and fees.

The city may adopt reasonable fees for reimbursement of costs of setting up and operating the city's pretreatment program which may include:

- A. Fees for wastewater discharge permit applications including the cost of processing such applications;

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- B. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
 - C. Fees for reviewing and responding to accidental discharge procedures and construction;
 - D. Fees for filing appeals;
 - E. Fees to recover administrative and legal costs associated with the enforcement activity taken by the director to address IU noncompliance; and
 - F. Other fees as the city may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the city.

Stevenson City Council
Report on Sewer Ordinance Committee
January 12, 2024
Submitted by: Tracy Gratto Consulting, Committee Facilitator

This document outlines the goals, main themes expressed and final recommendations of the Sewer Ordinance Committee. Additionally, it provides details about the process, evaluation results, notable challenges encountered and next steps.

Process

During the council meeting on September 21, 2023, an ad-hoc committee was formed to examine potential amendments to the sewer ordinance. Comprised of 15 members carefully chosen to represent diverse perspectives on the issue, including three Councilmembers, the committee convened four times. City staff provided background information on the topic, actively seeking input during these sessions. The final recommendation comprises elements or “triggers” that would inform the updated sewer ordinance and will be presented by committee member Wes Huston on January 18, 2024. City staff will also present a policy and legal analysis of those recommendations, potentially offering alternatives for consideration. Additionally, the survey findings and proposed edits to the Financial Policy will be presented by city staff.

Charter: Goals of Committee

1. Create a shared understanding of the sewer and septic trends in our community.
2. Validate or identify the need to alter the 1972 Sewer Ordinance assumptions/decisions, 2013 Land Use/Development assumptions/decisions and 2019 Rate assumptions/decisions.
3. Surface the potential impacts of proposed changes to the 1972 Sewer Ordinance.
4. Recommend a proposal with the least negative impacts.

Results

1. Fair Infrastructure Improvement and Expansion

A significant majority endorsed the necessity of expanding sewer lines within the city boundaries by 2040. Success entails ensuring a fair distribution of financial implications that avoids imposing excessive costs on residents transitioning from septic to sewer and extending sewer lines. The emphasis was on addressing the needs of low-income property owners and individuals interested in small-scale private development was noted. "Equitable" has been defined to encompass the financial contributions of all residents living within Stevenson city limits.

2. Final recommendations for triggers related to the sewer ordinance

Method: Two meetings were conducted to gather input regarding the criteria for mandatory connection to the city sewer system and the associated financial expectations. Next, the committee was asked to participate in an online survey addressing "triggers" to inform the development of an ordinance and proposed edits to the Finance Policy. On December 18, 2023, two committee members hosted an informal

meeting with an attempt to reach consensus on a set of "triggers" and a definition of "Available." Following the meeting, the identified triggers were circulated via email to members who were not in attendance, accompanied by an invitation to meet with Wes Huston.

The method of collecting final votes was unconventional yet deemed necessary. Seven members voted in person during the January 8, 2024 meeting, with an additional proxy vote included. Three members submitted their votes through email. As of now, one member has not yet cast their vote. 11 of 12 members voted.

Next steps: City staff will conduct a policy and legal evaluation of all recommendations, specifically noting areas of alignment and potential concerns. To foster transparency, this document will be publicly available throughout the entire process, ensuring documentation of the committee's recommendations in comparison to the final decisions made by the Council. A revised sewer ordinance will be presented to the Council on January 18, 2024.

The committee requested increased public awareness and education. Suggestions were social media, posters, fliers in businesses, committee members sharing information and ads in the newspaper are all methods the city should use to inform the public about the upcoming changes and hearings.

3. Financial Policy Recommendation

Method: Numerous efforts were made to gather opinions and ideas for modifying the existing Financial Policy, both through discussions in meetings and using a [Financial Survey](#). The survey remained open for a month and received three responses. Additional input was collected in the final meeting. Unfortunately, due to limited participation, staff couldn't present and collect votes on conclusive recommendations for the final meeting. As of January 9, 2024 we have 6 of 12 responses.

Next Steps: Staff will advance their recommendations to Council on January 18, 2024. The committee members who attend the Listening Session will have a chance to comment at that time.

4. Themes from the Committee's discussion and member presentations

- Stevenson should have a standard level of wastewater services and extend sewer lines to all city limits using a phased approach with a majority of the extensions being grant funded.
- Spread the cost to "everyone" and aim for a "fair share" approach.
Individual recommendations: rates, GO Bond, assessing fees, property tax, business tax, majority grants, commercial fair share, etc. There is concern about the negative financial impacts on property owners, including lower-income and those developing single-family homes or smaller developments.

- Hire a grant writer. Staff clarified grants can only fund a certain percentage of the cost of the lines, and the City has access to grant writers.
- Change the “available” definition of 300 feet. Recommend “immediately available,” or 0 feet.
- Failure of septic with no repair options available should result in hook-up to sewer lines.
- When the sewer is immediately available, hook-up is the ultimate goal. Assess fees if property owners choose not to connect and consider waiving System Development Charge (SDC) fees to encourage connection.
- The moratorium was not viewed positively and staff responded swiftly to concerns. Note: Moratorium lifted by City Council at the December 21, 2023 meeting.
- Development in Stevenson - there is a lack of consensus on the assumptions, approaches and processes related to development. Individual comments: no desire for growth, growth is coming and we should be planning better, people developing vacant lots need easier processes and regulations, development is not friendly in Stevenson, growth is not coming.

Facilitator Note and Challenges

Scope: The financial aspects related to financing the current and future needs related to wastewater infrastructure in Stevenson is a complex issue with an intricate array of solutions, as evident in the education offered by staff and witnessed in discussions at the meetings and survey outcomes. The group frequently tried to expand beyond the committee's initial scope on defining the city's financial policy to alleviate the impact on individuals compelled to connect. There was strong interest to identify the funding mechanisms for line extensions. It was communicated that financing solutions for sewer line extensions would be formulated as the lines are prioritized in the Capitol Improvement Program (CIP).

Who will pay: A key challenge emerged in striking a balance between addressing the concerns of individuals burdened by sewer line extensions within the city limits and the potential rise in rates if individuals are not expected to contribute. While there was limited discussion about the effects of Stevenson's rates on low-income individuals, it was acknowledged as a concern.

Assumptions: The methodology of promoting hook-ups to mitigate rate increases was considered invalid. Frustration was noted about the limited availability of information regarding the rate study.

Disruptions: Unfortunately, one committee member and her husband, who is now an elected official, made multiple attempts to disrupt and undermine the committee. For example, there were numerous out-of-scope public records and data requests, which not only confused committee members but also necessitated staff to provide extensive documentation to address straightforward inquiries. On December 4, 2023, the newly elected councilmember expressed concerns in an email, stating, "The fact that this committee operated in secrecy taints whatever

conclusion or recommendation it makes." Following this email, several committee members discontinued their involvement. There were two committee members who voted against an open meeting format, and all meeting notes were consistently posted after each meeting.

Evaluation Results Six of thirteen members filled out the evaluation, indicating mostly positive feedback. Opportunities for improvement were less process, more clarity on the financial aspects and uncertainty in identifying the need to alter the 2019 rate assumptions/decisions. Please review the results and comments.

Committee-specific materials are online [here](#).

Thank you for the opportunity to support this important committee process.

Facilitator hours:

Paid: 33 hours

Volunteer: 58 hours

Total: 91 hours

Appendix 1

Members of the Committee

Staff: City Administrator Leana Kinley, Public Works Director Carolyn Sourek, Community Development Director Ben Shumaker

Facilitator: Tracy Gratto

Name	Perspective
Adam Miller	Extended line/Former septic
Brian McKenzie	Developer
Chuck Oldfield	Sewer
Dave Cox	Councilmember-Sewer
Gail Collins	Former PWD/Septic
Jeff Breckel	Sewer/PC Chair/Environmental Aspect
Jenny Taylor	Sewer/Septic/Former Council Member/Port Commissioner
Karen Rutledge	Sewer/Septic conversion cost concern
Mark Peterson	Septic/History of issue
Michael Johnson	Councilmember-Sewer
Rick Jessel	Septic
Rick May	Former Septic/Sewer/Developer
Scott Anderson	Mayor-Sewer
Shawn Van Pelt	Septic/Developer/Business Owner
Wes Houston	Property Owner-Septic

Appendix 2: Stevenson Wastewater Clarifiers January 8, 2024 Meeting

Final Vote for Recommendations on Sewer Triggers

The assumptions...

With cooperation between the City of Stevenson Council, Staff and its Residents, all properties within city limits can add enjoying sewer connection availability to the already long list of amenities being enjoyed by those who live, work and play here. This is assuming the following.

1. Current estimated extension benchmarks are provided with dates and associated costs when adopting any of the following.
2. Future financial goals are met, aimed at eliminating the need to raise to system development charges and causes for spikes in rates for current and new rate payers with regards to the funding of current sewer treatment plant upgrades, future sewer line extensions as well as regular maintenance of the entire system.
3. There will be a future public process with respect to these future extension costs and the effects on rates.

The triggers...**red indicates edits made during January 8, 2024 meeting**

- Available defined

Public sewer to which a lot can connect without further extension of the public sewer.

Same as "Immediately Available" definition that has been previously used.

(7) As Is

- Existing Single Family Residence on Septic

System Development Charge (SDC) waived if connected within 3 years of public sewer becoming available.

If public sewer is currently available or when available, 50% of the monthly rate is charged.

After 3 years of public sewer becoming available, 100% of the monthly rate is charged whether connected or not.

(5) As Is

(2) More Flexible

- Existing Multi Family Residence on Septic

System Development Charge (SDC) waived if connected within 3 years of public sewer becoming available.

If public sewer is currently available or when available, 50% of the monthly rate is charged.

After 3 years of public sewer becoming available, 100% of the monthly rate is charged whether connected or not.

(7) As Is

- New Construction Single Family Residence

Public sewer if available.

Septic if not available.

When public sewer becomes available then same as Existing Single Family Residence.

(7) As Is

- New Construction Multi Family Residence

Public sewer if available.

Septic if not available.

When public sewer becomes available then same as Existing Multi Family Residence.

(7) As Is

- Remodel with Addition

All remodels with addition on septic must have the septic system inspected and approved for condition and capacity before permitting. If septic is in poor condition or undersized for addition, sewer connection becomes mandatory provided it is available. Public sewer system development charge paid **for by owner.** **Septic system may be expanded if sewer is not available.**

(7) As Is

- New Short plat development

Treat all lots as new construction. If sewer is available to any portion of the property, the plat will require all lots to connect. **Septic when sewer is not available.**

(7) As Is

- New Long plat development

Treat all lots as new construction. Developer funded line extension required to make public sewer available.

(7) As Is

- Commercial development

Same as Long Plat. Developer funded line extension required to make public sewer available.

(7) As Is

+++

Voters...

January 8, 2024 in-person vote: Wes Houston, Rick Jessel, Karen Rutledge, Jenny Taylor, Jeff Breckel, Chuck Oldfield, Adam Miller Jenny acted as Gail Collins proxy

Verbal: Brian McKenzie

Email: Rick May, Shawn Van Pelt emailed full consensus

No vote: Mark Peterson

The process...

Choose your preference on the following proposed triggers.

Choose "As Is" when you feel the trigger needs no alterations.

Choose "More Flexible" when you feel the trigger should come in to play more slowly or with less financial impact to users than described. Or a lighter touch.

Choose "Less Flexible" when you feel the trigger should come in to play sooner than or with more financial impact to users than described. Or heavier handed.

The results...

When "As Is" receives consensus vote, trigger passes as a recommendation.

When "As Is" receives majority vote with "More Flexible" as runner up, trigger passes as a baseline recommendation with further recommendation to explore options with more flexibility in timeline and or less financial impact to users in the final ordinance.

When "As Is" receives majority vote with "Less Flexible" as runner up, trigger passes as a baseline recommendation with further recommendation to explore options with a more aggressive timeline and or more financial impact to users in the final ordinance.

When "More Flexible" receives majority vote, trigger is open for discussion and adjustment by majority.

When "Less Flexible" receives majority vote, trigger is open for discussion and adjustment by majority.

Submitted by Wes Huston 1/10/24