

Next Ord: 1570-07

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MISSION STATEMENT

The mission of the Sedro-Woolley City government is to provide selected services that are not traditionally offered by the private sector. This will be achieved through providing the highest quality services we can within the resources with which we're provided; involving residents in all aspects of planning and operations; serving as a clearinghouse for public information; and operating facilities which meet the legitimate, identified concerns of the residents of and visitors to our community.

We believe in being community-centered, consistently contributing to the quality of life in our area and as fully deserving of the public's trust through the consistent expression of positive values and acceptance of accountability for producing meaningful results.

CITY COUNCIL WORKSESSION

AGENDA

April 3, 2007

7:00 PM

Public Safety Training Room

220 Munro Street

- A. Otak Update
(Establishment of Financial Policies for the Formation of a Stormwater Utility)
(Staff contact - Rick Blair)

- B. Wastewater Pretreatment Ordinance (fats, oil & grease)
(Draft Ordinance to be reviewed)
(Staff contact - Debbie Allen/Rick Blair)

- C. Adoption of the "Optional Municipal Code", RCW 35A
(Discussion on adoption of Code City vs. Second Class)
(Staff contact - Eron Berg)

City of Sedro Woolley

Establishment of Financial Policies for the Formation of a Stormwater Utility

Presentation to City Council
by Rick Blair, PE, Public Works Director
and Joe Simmler, PhD, Otak

April 3, 2007

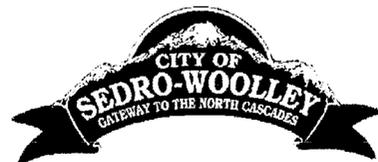
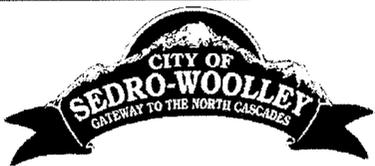


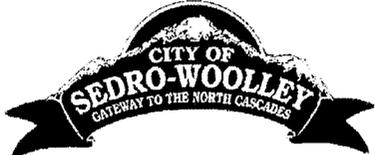
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for the
Formation of a Stormwater Utility

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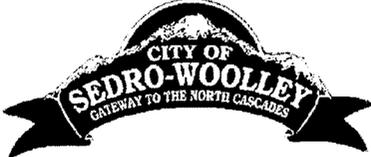
City of Sedro Woolley
Stormwater Utility Formation: Financial Policy and Funding Issues
(with Initial Consultant Recommendations)

Policy Number	I	Policy Title/Name	Basis of Utility Fee
Statement of Policy		What should the user fee be based on? Actual versus estimated impervious area or some other factor (e.g., parcel size, parcel size with runoff coefficients, land use, or other generalized factors, etc.)	
Initial Consultant Recommendation (Pros/Cons)		Actual measured impervious surface for non-residential properties. Flat rate for residential properties, based on a survey and average of lot sizes.	
Impact on Rates/Amount		None.	
Rationale		The majority of stormwater utilities use impervious surface as the basis of their fees, particularly for non-residential parcels. The amount of impervious surface on a property is probably the best overall indicator as to how much a particular property contributes to the overall stormwater problem. Actual measurement of impervious surface, although labor intensive, provides for an accurate and defensible fee basis. Impervious surface data can also serve other purposes within the City.	
Council Comments/Discussion			
Council Direction/Discussion			
	Yes/No		
	Date		

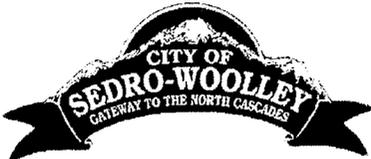
City of Sedro Woolley
Stormwater Utility Formation: Financial Policy and Funding Issues
(with Initial Consultant Recommendations)

Policy Number	2	Policy Title/Name	Utility Organization/Structure
Statement of Policy	Should the stormwater utility be established as a stand-alone entity, incorporated into the Public Works Department, or established primarily as a legal and financial mechanism?		
Initial Consultant Recommendation (Pros/Cons)	The stormwater utility should be organized primarily as a legal and financial entity. Organizationally, SWM Programs are usually implemented through the Public Works Department.		
Impact on Rates/Amount	None.		
Rationale	The primary purpose of the utility is to provide a legal and financial structure for creating a dedicated stormwater fund, instead of creating a new administrative unit within an existing municipal department. Revenue from user fees are put into an enterprise or other restricted fund and used exclusively to fund stormwater management programs, usually based in Public Works.		
Council Comments/ Discussion			
Council Direction/ Discussion			
	Yes/No		
	Date		

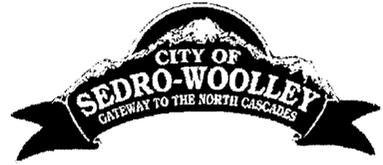
City of Sedro Woolley
Stormwater Utility Formation: Financial Policy and Funding Issues
(with Initial Consultant Recommendations)

Policy Number	3	Policy Title/Name	Billing System
Statement of Policy	Should fees be collected as part of existing utility billing system, as part of a new and separate billing system, or included in the annual property tax statements from the County Treasurer along with other special district fees and assessments?		
Initial Consultant Recommendation (Pros/Cons)	To be determined upon further discussions with the City. It is likely that the most cost-effective billing mechanism for the City is will be to use the existing monthly utility billing system.		
Impact on Rates/Amount	Numeric impact has not been estimated. However, using the City's existing utility billing system would be the least costly, and allows the proposed rates to be lower, with more fee revenue devoted to stormwater program related activities and regulatory compliance.		
Rationale	The City's utility services currently bill monthly for both residential and commercial service. The use of an existing billing system is far less expensive than establishing a separate new billing system. If included on annual property tax statement, user fees may be viewed by property owners as a tax. However, fees included as part of the property tax statements are easily paid by escrow accounts and are rarely seen by property owners.		
Council Comments/ Discussion			
Council Direction/ Discussion			
	Yes/No		
	Date		
			

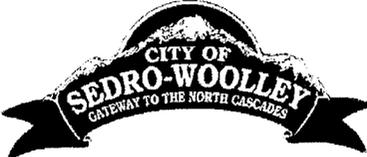
City of Sedro Woolley
 Stormwater Utility Formation: Financial Policy and Funding Issues
 (with Initial Consultant Recommendations)

Policy Number	4	Policy Title/Name	Appeal Procedure
Statement of Policy	Should the utility include an appeal procedure for property owner who dispute their fees?		
Initial Consultant Recommendation (Pros/Cons)	Yes.		
Impact on Rates/Amount	None.		
Rationale	A mechanism for revision or modification of user fees provides property owners, who dispute utility fees applied to their property or otherwise disagree with the utility rate, an opportunity to have their rates adjusted.		
Council Comments/Discussion			
Council Direction/Discussion			
	Yes/No		
	Date		

City of Sedro Woolley
 Stormwater Utility Formation: Financial Policy and Funding Issues
 (with Initial Consultant Recommendations)

Policy Number	5	Policy Title/Name	Enforcement of Non-Payment	
Statement of Policy	How should the City handle enforcement for non-payment of utility fees?			
Initial Consultant Recommendation (Pros/Cons)	Allow lien on property, consistent with sewer and solid waste.			
Impact on Rates/Amount	None.			
Rationale	As administrator of a stormwater utility, the City has the authority to place a lien of property for owners who refuse to pay fees (RCW 35.67).			
Council Comments/Discussion				
Council Direction/Discussion				
	Yes/No			
	Date			

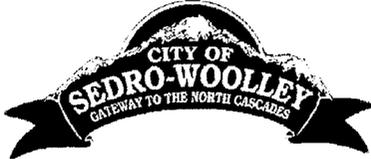
City of Sedro Woolley
 Stormwater Utility Formation: Financial Policy and Funding Issues
 (with Initial Consultant Recommendations)

Policy Number	6	Policy Title/Name	Credit for Infiltration
Statement of Policy	Should properties that retain and infiltrate their stormwater on-site be given a credit?		
Initial Consultant Recommendation (Pros/Cons)	Yes, if they meet certain criteria. However, this credit may not be applicable much in the City.		
Impact on Rates/Amount	20% Credit. Numeric impact has not been estimated.		
Rationale	Encourages compliance with UIC Rule (WAC 173-218), including proper design, construction, O&M, and registration of infiltration systems. Promotes groundwater protection and maintains natural hydrologic function.		
Council Comments/Discussion			
Council Direction/Discussion			
	Yes/No		
	Date		

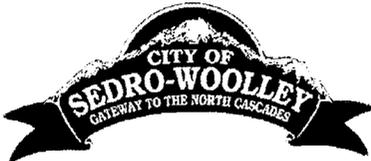
City of Sedro Woolley
Stormwater Utility Formation: Financial Policy and Funding Issues
(with Initial Consultant Recommendations)

Policy Number	7	Policy Title/Name	Credit for Existing Stormwater Systems
Statement of Policy	Should commercial and industrial properties that were required to install stormwater treatment systems and that discharge into the City's storm sewer system be given a credit?		
Initial Consultant Recommendation (Pros/Cons)	No.		
Impact on Rates/Amount	Numeric impact has not been estimated. Generally, any discounts reduces the total amount of revenue collected and results in increases in fees to acquire the same amount of revenue needed to annually operate the new SWM Program and CIP.		
Rationale	Discharging treated or untreated stormwater into the City's storm drains results in the need for additional City infrastructure and annual maintenance. Per City standards, most new large developments will need to apply stormwater flow control and/or treatment. Normally, a discount is not given for the construction of on-site drainage systems because this is part of developing the site. This is the cost of doing business.		
Council Comments/Discussion			
Council Direction/Discussion			
	Yes/No		
	Date		

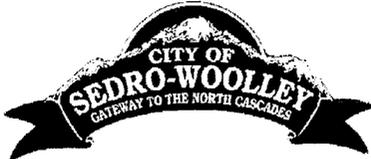
City of Sedro Woolley
Stormwater Utility Formation: Financial Policy and Funding Issues
(with Initial Consultant Recommendations)

Policy Number	8	Policy Title/Name	Credit for NPDES System
Statement of Policy	Should holders of NPDES permits be given a credit?		
Initial Consultant Recommendation (Pros/Cons)	Yes, if they meet certain criteria.		
Impact on Rates/Amount	10-20% Credit. At this point, prior to the analysis of impervious areas, the commercial areas of the City are estimated to represent about 2,000 equivalent rate/residential units (ERSs). If the rate was \$10/ERU/month, and a discount of 20% is given, the resulting loss of revenue would be about \$48,000 per year.		
Rationale	Permit holders are required to carry out routine management and maintenance for on-site stormwater. Required to prepare a SWPPP and a stormwater monitoring plan; conduct visual monitoring and sampling; operate and maintain BMPs, maintain records of all activities, prepare quarterly reports to Ecology.		
Council Comments/Discussion			
Council Direction/Discussion			
	Yes/No		
	Date		

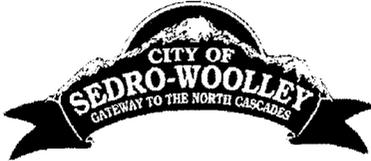
City of Sedro Woolley
 Stormwater Utility Formation: Financial Policy and Funding Issues
 (with Initial Consultant Recommendations)

Policy Number	9	Policy Title/Name	Credit for Schools	
Statement of Policy	Should schools be given a credit or waiver?			
Initial Consultant Recommendation (Pros/Cons)	Yes, if they meet certain criteria.			
Impact on Rates/Amount	Numeric impact has not been estimated. Generally, the financial impacts of schools on the total annual revenue of a SWM Program are relatively small compared to other classes of non-residential rate payers.			
Rationale	Will improve compliance in future by educating future generations—kids. Can be used to help satisfy “Public Education and Outreach” requirement of NPDES Phase II permit. Typically, they would develop and submit a stormwater related curriculum for City approval to receive the credit.			
Council Comments/ Discussion				
Council Direction/ Discussion				
	Yes/No			
	Date			

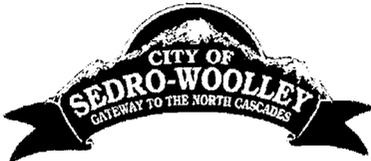
City of Sedro Woolley
 Stormwater Utility Formation: Financial Policy and Funding Issues
 (with Initial Consultant Recommendations)

Policy Number	10	Policy Title/Name	Discounts for Low-Income Senior Citizens	
Statement of Policy	Should low-income senior citizens be given a discount or waiver?			
Initial Consultant Recommendation (Pros/Cons)	Yes, ensures consistency with sewer and solid waste.			
Impact on Rates/Amount	20% discount. Numeric impact has not been estimated.			
Rationale	The City currently provides discounted utility rates for qualifying, low-income elderly citizens. Must qualify as an “eligible head of household” per RCW 84.36.381.			
Council Comments/ Discussion				
Council Direction/ Discussion				
	Yes/No			
	Date			

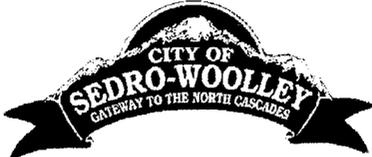
City of Sedro Woolley
 Stormwater Utility Formation: Financial Policy and Funding Issues
 (with Initial Consultant Recommendations)

Policy Number	11	Policy Title/Name	Discounts for Low-Income Citizens	
Statement of Policy	Should low-income citizens be given a discount or waiver?			
Initial Consultant Recommendation (Pros/Cons)	No.			
Impact on Rates/Amount				
Rationale	The City currently does not provide discounted utility rates for low-income citizens. Ensures consistency with established utility policies.			
Council Comments/ Discussion				
Council Direction/ Discussion				
	Yes/No			
	Date			

City of Sedro Woolley
 Stormwater Utility Formation: Financial Policy and Funding Issues
 (with Initial Consultant Recommendations)

Policy Number	12	Policy Title/Name	Discounts for Disabled Citizens
Statement of Policy	Should disabled citizens be given a discount or waiver?		
Initial Consultant Recommendation (Pros/Cons)	Yes.		
Impact on Rates/Amount	20% discount. Numeric impact has not been estimated.		
Rationale	The City currently provides discounted utility rates for qualifying disabled citizens (veterans). Must qualify as an "eligible head of household" per RCW 84.36.381.		
Council Comments/Discussion			
Council Direction/Discussion			
	Yes/No		
	Date		

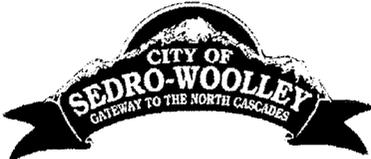
City of Sedro Woolley
 Stormwater Utility Formation: Financial Policy and Funding Issues
 (with Initial Consultant Recommendations)

Policy Number	13	Policy Title/Name	Discount for Government Buildings/Facilities	
Statement of Policy	Should government owned buildings and facilities be given a discount or waiver?			
Initial Consultant Recommendation (Pros/Cons)	No, unless it qualifies for another reason.			
Impact on Rates/Amount	Numeric impact has not been estimated.			
Rationale	Need to maintain fairness in the eyes of the public. Waiving publicly owned facilities may make sense because the cost will usually be borne by taxpayers, but it may not be perceived as fair or equitable and could cause defensibility issues, if the rates are challenged.			
Council Comments/ Discussion				
Council Direction/ Discussion				
	Yes/No			
	Date			

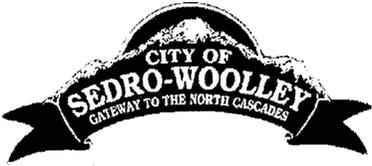
City of Sedro Woolley
 Stormwater Utility Formation: Financial Policy and Funding Issues
 (with Initial Consultant Recommendations)

Policy Number	14	Policy Title/Name	Discount for City/County Roads	
Statement of Policy	Should City road rights of way be given a discount or waiver?			
Initial Consultant Recommendation (Pros/Cons)	Yes			
Impact on Rates/Amount	Waiver 100%. Numeric impact has not been estimated.			
Rationale	City Public Works Dept is currently paying for road drainage O&M. Road drainage accommodates a significant portion of off-road runoff. Stormwater utility funds would pay for additional O&M activities required under "Pollution Prevention and Good Housekeeping" requirements outlined in the City's NPDES II permit.			
Council Comments/Discussion				
Council Direction/Discussion				
	Yes/No			
	Date			

City of Sedro Woolley
Stormwater Utility Formation: Financial Policy and Funding Issues
(with Initial Consultant Recommendations)

Policy Number	15	Policy Title/Name	Discount for State Roads
Statement of Policy	Should State road rights of way be given a discount or waiver?		
Initial Consultant Recommendation (Pros/Cons)	Yes.		
Impact on Rates/Amount	Waiver 100%. Numeric impact has not been estimated.		
Rationale	State roads can only be charged at a fraction of the normal rate and only if City roads are charged. In addition, use of utility revenue is limited to projects that benefit State road runoff.		
Council Comments/ Discussion			
Council Direction/ Discussion			
	Yes/No		
	Date		

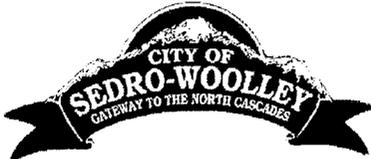
City of Sedro Woolley
 Stormwater Utility Formation: Financial Policy and Funding Issues
 (with Initial Consultant Recommendations)

Policy Number	16	Policy Title/Name	Discount for Parks	
Statement of Policy	Should parks be assessed a fee?			
Initial Consultant Recommendation (Pros/Cons)	No.			
Impact on Rates/Amount	Numeric impact has not been estimated. Parks usually generate only limited amounts of revenue for SWM Programs due to their relatively limited amount of impervious area.			
Rationale	Most parks offer a valuable environmental and recreation service and normally have limited overall amounts or percentage of impervious surface.			
Council Comments/ Discussion				
Council Direction/ Discussion				
	Yes/No			
	Date			

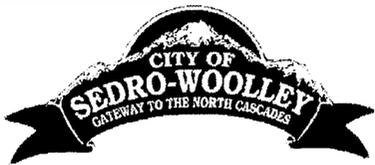
City of Sedro Woolley
Stormwater Utility Formation: Financial Policy and Funding Issues
(with Initial Consultant Recommendations)

Policy Number	17	Policy Title/Name	Discount for Trails/Bike Paths
Statement of Policy	Should public trails and bike paths be assessed a fee?		
Initial Consultant Recommendation (Pros/Cons)	No.		
Impact on Rates/Amount	Numeric impact has not been estimated. Trails/bike paths usually generate only limited amounts of revenue for SWM Programs due to their relatively limited amount of impervious area.		
Rationale	These facilities offer a valuable environmental education and recreation service and normally have limited overall amounts or percentage of impervious surface.		
Council Comments/Discussion			
Council Direction/Discussion			
	Yes/No		
	Date		

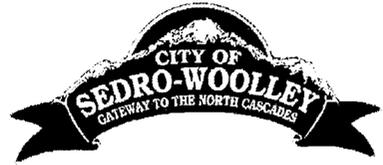
City of Sedro Woolley
 Stormwater Utility Formation: Financial Policy and Funding Issues
 (with Initial Consultant Recommendations)

Policy Number	18	Policy Title/Name	Discount for Vacant/Undeveloped Lands	
Statement of Policy	Should vacant, undeveloped lands be assessed a fee?			
Initial Consultant Recommendation (Pros/Cons)	No, unless they are known to have significant amounts of impervious surface or contribute to water quality problems.			
Impact on Rates/Amount	Numeric impact has not been estimated.			
Rationale	Assumes property is in a natural condition or at least a vegetated condition. City staff should periodically verify the accuracy of assumption.			
Council Comments/ Discussion				
Council Direction/ Discussion				
	Yes/No			
	Date			

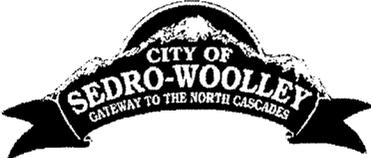
City of Sedro Woolley
 Stormwater Utility Formation: Financial Policy and Funding Issues
 (with Initial Consultant Recommendations)

Policy Number	19	Policy Title/Name	Inclusion for Sidewalks
Statement of Policy	Should residential and non-residential properties be charged for sidewalks?		
Initial Consultant Recommendation (Pros/Cons)	Varies.		
Impact on Rates/Amount	Numeric impact has not been estimated.		
Rationale	Assume that sidewalk area is not included in the measurement of impervious surface area or calculation of a property owner's ERUs if within the City road rights of way. However, private sidewalk areas on private road tracts will be included in measurements and fee assessments.		
Council Comments/Discussion			
Council Direction/Discussion			
	Yes/No		
	Date		

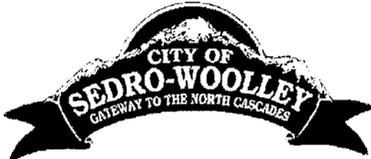
City of Sedro Woolley
Stormwater Utility Formation: Financial Policy and Funding Issues
(with Initial Consultant Recommendations)

Policy Number	20	Policy Title/Name	Flat Fee for Residential Lots
Statement of Policy	Should residential properties pay the same amount (flat fee) regardless of parcel size or the amount of impervious surface present?		
Initial Consultant Recommendation (Pros/Cons)	Yes.		
Impact on Rates/Amount	Numeric impact has not been estimated.		
Rationale	Easy to explain and for the public to understand. Also easy to administer. Assumes that parcel size and amount of impervious surface is fairly uniform throughout the City. However some inherent unfairness when large homes pay the same as small homes		
Council Comments/Discussion			
Council Direction/Discussion			
	Yes/No		
	Date		
			

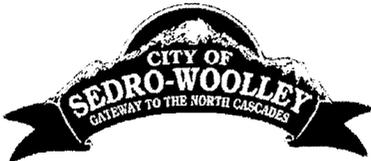
City of Sedro Woolley
 Stormwater Utility Formation: Financial Policy and Funding Issues
 (with Initial Consultant Recommendations)

Policy Number	21	Policy Title/Name	Rate Cap for Businesses	
Statement of Policy	Should there be a cap on the maximum amount a business pays, regardless of the number of ERUs?			
Initial Consultant Recommendation (Pros/Cons)	No.			
Impact on Rates/Amount	Numeric impact has not been estimated.			
Rationale	Businesses should be scaled by the number of ERUs on site.			
Council Comments/ Discussion				
Council Direction/ Discussion				
	Yes/No			
	Date			

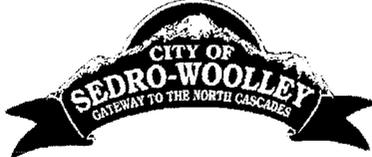
City of Sedro Woolley
Stormwater Utility Formation: Financial Policy and Funding Issues
(with Initial Consultant Recommendations)

Policy Number	22	Policy Title/Name	Schedule/Billing Considerations
Statement of Policy	How does the City give businesses time to prepare for this new fee, especially the big rate payers who may not be able to pass the cost on to tenants or customers right away?		
Initial Consultant Recommendation (Pros/Cons)	Communicate with top payers and certain groups early so they can plan ahead.		
Impact on Rates/Amount	None.		
Rationale	The City should consider alternatives to ensure that year-one fees are not so large that they cannot be absorbed by businesses. Should also inform citizens and businesses on what their rates will be in subsequent years of the permit so they can plan accordingly.		
Council Comments/Discussion			
Council Direction/Discussion			
	Yes/No		
	Date		

City of Sedro Woolley
Stormwater Utility Formation: Financial Policy and Funding Issues
(with Initial Consultant Recommendations)

Policy Number	23	Policy Title/Name	City Taxes on Storm Utility
Statement of Policy	Should the utility be taxed?		
Initial Consultant Recommendation (Pros/Cons)	Not initially, however it may be appropriate over the long term.		
Impact on Rates/Amount	Numeric impact has not been estimated.		
Rationale	Could be perceived by general public as a scheme to get more money, however utility taxes are a legitimate way to raise general fund revenue.		
Council Comments/Discussion			
Council Direction/Discussion			
	Yes/No		
	Date		

City of Sedro Woolley
Stormwater Utility Formation: Financial Policy and Funding Issues
(with Initial Consultant Recommendations)

Policy Number	24	Policy Title/Name	Creation of a Capital Facilities Charge for Stormwater	
Statement of Policy	Should there be a capital facilities charge for new and redeveloped properties within the City in addition to monthly utility rates?			
Initial Consultant Recommendation (Pros/Cons)	Requires further study to establish defensible developer impact fees, including inventory of existing infrastructure, financial assessment, and further rate study.			
Impact on Rates/Amount	Numeric impact has not been estimated. An initial study would be needed to estimate the value of the existing infrastructure and the amount and value of new infrastructure needed to accommodate new development. An estimate would also need to be made for each piece of new infrastructure as to how much of that facility was related to existing development and how much was needed for new development, with the cost of the each facility pro-rated accordingly.			
Rationale	The City's capital needs consist primarily of repair/replacement type projects, not necessarily those arising from new or redevelopment. Developer impact fees are typically used to address increased infrastructure needs resulting from new growth. It may be difficult to establish City-wide impact fees, especially if most new development is occurring within a select few drainage basins. Impact fees may prove not to be a sign. Source of revenue as compared to other sources.			
Council Comments/ Discussion				
Council Direction/ Discussion				
	Yes/No			
	Date			

City of Sedro Woolley
Stormwater Utility Formation: Financial Policy and Funding Issues
(with Initial Consultant Recommendations)

SWM Funding

Operating	Capital	Financial Options	Potential Revenue
X	X	General Fund	Limited
X		Permit Fees	< 5%
	X	Developer Fees (SDCs)	5 – 10%
X	X	Stormwater Utility	80 – 90%
X	X	Grants	Occasionally
X	X	Loans	Sometimes
	X	Bonds (for CIPs)	Occasionally
X	X	Special Purpose Districts	Rarely
X		Internal Efficiencies (within City)	Limited
X	X	Partner w/ Developers and/or Agencies	Limited
	X	Fee in Lieu of On-Site Detention	Gaining in Popularity



Table 1

Summary of Existing Stormwater and Related Utility Ordinances within Skagit County

Utility Information	Anacortes	Burlington	Ia Conner	Mount Vernon	Skagit County
General Information:					
Population	16,170	8,120	839	28,710	113,100
Utility Type	Storm and Sewer Surface Water	Storm Water and Surface Water	Storm and Surface Water	Surface Water	Drainage
Program Funded	Stormwater	Surface Water Management	Stormwater Drainage	Surface Water Management	Drainage Management
Municipal or County Code Referenced	Chapter 13.10 AMC	Chapter 14.805 BMC	Chapter 12.30 LCMC	Chapter 13.34 & 13.35 MVNC	Chapter 12.19 SCC
Date of Utility Establishment	March 1999	1994	March 1990	July 1993	December 1994
NPDES Phase II Jurisdiction	Yes	Yes	No	Yes	Yes
Expected Rate Increase to Fund NPDES Phase II Compliance?	City intends to increase basic monthly charge from \$3 to \$4 per ISU in 2008. Rate increase not related to NPDES.	Need additional information.	Need additional information.	Not at this time.	Not at this time.
Scope of Existing Stormwater Management Program	The City has developed and implemented a SWM Program that address the required NPDES Phase II elements.	Need additional information.	Need additional information.	Comprehensive SWM Plan updated in 2004. Gap Analysis conducted and revealed that City in full compliance with 3 or 6 NPDES minimum control measures.	Outdate Comprehensive SWM Plan Skagit County Capital Improvement Plan developed in 1995.
Development of SWM Program for NPDES Phase II Compliance	Comprehensive SWM Plan to be updated and finalized by January 2007.	Need additional information.	Need additional information.	City has contracted with Skagit Co. Cons District to conduct Public Education and Outreach and Public Involvement. Consultant to be hired to assist City in complying with IDDE and good housekeeping elements of permit.	Need additional information.
Annual Program Budget - 2007	Not identified. (\$380,000 for 2003)	\$4,423,755	\$478,971	\$2,036,655	\$1,075,040
Annual Program CIP Budget - 2007	Not identified.	\$2,025,500	\$1,676,123	\$282,000	Included in annual budget.
Total FTE Dedicated to Program - 2007	Not identified.	1.0	4.0, Public Works Employees 1.0, Public Works Director	0.5, Utility Administration 6.0, Billed indirectly for development review and engineering, street sweeping, construction, and system repair/maint.	3.0, Full time 2.0, Part time

Utility Information	Anacortes	Burlington	La Conner	Mount Vernon	Skagit County
System and Structure of Rates or Charges:					
Basis of Billing	Average impervious conditions on single-family residential parcel.	Amount of runoff created by average single-family residential parcel.	Area of impervious surface associated with the average residential parcel.	Amount of runoff created by average single-family residential parcel.	Average impervious square feet per parcel for single- and multi-family res parcels.
ERU or ISU or ESU (square ft impervious area)	2,000	2,400	2,100	2,657	3,692 for single-family residential parcel, 4,550 for multi-family residential parcel. (ERU or other not formally defined)
Minimum Service Charge	\$300 per ISU (Monthly Basic Charge)	\$3.10 per ESU (Monthly Base Rate)	\$11.55 per ERU (Monthly water meter charge)	\$6.05 per ESU (Monthly Base Rate)	Annual rates and charges based on land use classifications, size, and impervious surface area.
Single-Family Residential Parcels	1.0 ISU	1.0 ESU	Residential meter 3/4" or less: 1 ERU Residential meter 1" or more: Monthly Charge x ERUs	1.0 ESU	\$25.80 / SFR plus \$0.30 / acre \$31.79 / MFR plus \$0.50 / acre (Equal to \$0.007 / sq ft imperv area)
Developed Parcels	Basic Charge x ISUs	Base Rate x ESUs minus approved rate adjustments.	Comm./Industrial/Municipal meter: Monthly Charge x ERUs	Base Rate x ESUs	Comm, Indust, Apts, Institutional, Agr: \$0.007 / sq ft imperv area plus \$0.30 / acre County Roads: \$0.007 / sq ft imperv area State Roads: \$0.0021 / sq ft imperv area
Undeveloped Parcels	No charge.	No charge	No charge	No Charge	\$0.30 / acre
Total Number of Billing Customers	Not Identified. (6,381 for 2003)	2,592	552	8,253	27,977
Total Number of Billing Units (ERU or ESU or ISU)	Not identified. (10,555 for 2003)	13,686	Unable to provide.	18,527	Unable to provide.
Total Number of Billing Units Residential Customer Class (ERU or ESU or ISU)	Not Identified. (5,760 for 2003)	2,432	399	Unable to provide.	14,337 Includes vacant lots.
Total Number of Billing Units Non-Res Customer Class (ERU or ESU or ISU)	Not identified. (4,795 for 2003 Comm./Ind)	11,254	153	Unable to provide.	13,640

Utility Information	Anacortes	Burlington	La Conner	Mount Vernon	Skagit County
Rate Adjustments, Credits, or Exemptions:					
Approved On-Site Stormwater Systems	Not identified.	Credits against the monthly service charge available to all non-single-family residential parcels having constructed City-approved on-site stormwater mitigation facilities exceeding City standards. Credit eligibility contingent upon meeting established criteria. Credits for water quantity and quality mitigation based on established credit calculation formulas.	Credit based on a 20% reduction in the contributing imperv area available to water meter accounts with approved on-site or private stormwater system. To qualify, systems must meet or exceed water quality and quantity requirements of Ecology's SWMM for Puget Sound Basin, owners must provide right of entry for system inspection and properly maintain system.	The charge for any parcel, other than single-family residential or duplex properties, meeting the minimum requirements of Ecology's 1992 SWMM for Puget Sound Basin shall be reduced by 20% upon approval by the City.	Rate adjustments available for qualified on-site mitigation (including stormwater) that exceeds County standards and for parcel-specific characteristics that significantly affect run-off. Amount of rate adjustment to be determined by the Drainage Utility Manager. Rate adjustments require proper documentation and payment of a review deposit.
Direct Discharge	Not identified.	Not identified.	Credit based on a 40% reduction in contributing imperv area available to water meter accounts that directly discharge to marine waters. Can be combined with credit for on-site stormwater system for total credit of 60%. To qualify, stormwater runoff must directly discharge to approved marine waterways, meet or exceed water quality requirements specified in Ecology's SWMM for Puget Sound Basin, and not be connected with the town's drainage system.	The charge for any parcel containing an on-site surface water system not connected to the City's drainage system that discharges surface water runoff directly into a water body of statewide significance and the surface water runoff meets or exceeds the water quality requirements of latest version of Ecology's SWMM for Puget Sound Basin shall be reduced by 60% upon approval by the City.	Not identified.
Drainage and other Special Districts	Not identified.	Credits against the monthly service charge available to certain properties served by a Skagit County drainage district. Credit eligibility contingent upon meeting established criteria.	Not identified.	All properties within the City and also located within and paying charges to a drainage district shall receive a discount in the monthly utility charge in an amount equal to the drainage dist charge; however, discounts shall not exceed the monthly utility charge.	All areas lying in a Skagit County drainage or sub-flood control zone district are exempt from the utility rates and charges as established in the Drainage Utility.
Excluded Lands or Developed Parcels	Not identified.	Public streets.	Select Port of Skagit County lands not directly connected to town's drainage system or contiguous with town's drainage basins.	Public streets.	All federal and tribal owned lands located within the County; waterways (tidelands, riparian right-of-ways, lakes and/or streams); parcels with unassessed value (oyster tracts, marine moorage condos, and taxable accounts with no assessed value).
Senior Citizens and Low Income	Not identified.	Not identified.	Not identified.	The charge for any single-family residential unit owned and occupied by a qualifying low income elderly person shall be 75% of the applicable rate.	Not identified.

Utility Information	Anacortes	Burlington	La Conner	Mount Vernon	Skagit County
Newly Annexed Areas	Not identified.	Not identified.	Not identified.	The surface water utility charge for any parcel of real property, other than single-family residential or duplex properties, newly annexed within the City shall be reduced by 50% for a period of three years. A 50% reduction is available for any property located within the South Mount Vernon annexation area for a period of 5 years effective upon annexation.	Not identified.
Other Assessments/Charges:					
General Facility Charge (GFC)	\$1,126 per ISU One time charge.	Not identified.	Not identified.	Not identified.	Not identified.
	Not identified.	Single-family residential parcels charged \$270 (Base Charge). Developed Parcels charged Base Charge x ESUs. Credit against the service charge to certain properties served by a Skagit Co drainage district. Credit eligibility contingent upon meeting established criteria. Proceeds placed in surface water CIP fund used for construction of surface water expansion resulting from growth, debt service, and repair, replacement, and maint of existing surface water facilities.	Not identified.	Not identified.	Not identified.
System Extension Charge (SEC)					
Developer Contributions	Assessments vary by cost of specific offsite drainage improvements. Assessments adjusted by payment of a stormwater GFC.	Not identified.	Not identified.	Not identified.	Not identified.

Utility Information	Anacortes	Burlington	La Conner	Mount Vernon	Skagit County
Stormwater System Development Charge (SDC)	Not identified.	Not identified.	Direct connection to the stormwater system charged \$0.25 per sq foot of proposed impervious surface. Connection to the system through a required on-site stormwater facility charged \$0.12 per sq foot of proposed impervious surface. Short subdivisions or subdivisions charged a minimum of \$525 per each buildable lot created (lot charge allows for future development up to 2,100 sq feet of impervious surface; additional fees apply if threshold exceeded). Payment of fee required prior to issuance of development permit.	Not identified.	Not identified.
On-Time Charge	Not identified.	Not identified.	Not identified.	Not identified.	All real property assessed on-time charge (during permitting of construction) per sq foot of impervious surface area. Parcels intended to contain single-family or multi-family residences assessed a uniform charge based upon average impervious conditions.
Billing and Collection:					
Frequency	Monthly	Bi-Monthly	Monthly	Monthly	Annually
Method	Charges included on sanitary sewer, water, and/or garbage bill. A separate billing sent to non-utility customers.	Charges included on sanitary sewer bill.	Charges included on water and sewer bill.	Charges included on existing utilities bill. A separate billing sent to non-utility customers.	Charges included in the Skagit County annual tax statement. A separate billing sent to properties that do not receive a property tax statement.
Additional Information:	Revenue used to fund administration, planning, design, construction, operation, maintenance, repair, improvement, and replacement of all existing and future storm and surface water facilities, including the accumulation of reserves and the retirement of debt.	Funds placed in surface water utility fund for the following use, in order of priority: (1) the financing of capital projects included in an adopted surface water CIP plan and (2) funding of misc. small works capital projects.	Revenue used to fund administration, planning, design, construction, operation, maintenance, repair, improvement, and replacement of all existing and future storm and surface water facilities.	Revenue used to fund administration, planning, design, construction, water quality programming, operation, maintenance, and repair of the surface water system, facilities, conveyance, and program.	All fees and charges placed in the Skagit County Drainage Fund and used for the purpose of paying all or any part of the cost of all expenses related to the acquisition, installation, addition, improvement, replacement, repair, maintenance, operation, or administration of Drainage Utility facilities.
Revenue Process					
Appeal Mechanism	Owners may petition the City Official in writing for a hearing on a revision or modification of charges assessed.	Not identified.	Water meter account owner may request that the assessment be reviewed upon submission of a detailed site plan for review by the town.	Customers who dispute the service charge applied to their property or otherwise disagree with the utility rate determination may apply to the City Official for a service charge adjustment, stating in writing the grounds for such an adjustment.	Decisions of the Drainage Utility Manager on requests for rate adjustments may be appealed to the Skagit County Drainage Utility Appeals Board within 30 days of the decision date.

Utility Information	Anacortes	Burlington	La Conner	Mount Vernon	Skagit County
Delinquent Charges & Enforcement	Not identified.	Not identified.	Charges not paid within 6 months of assessment constitute a lien against the property, which may be foreclosed by the town.	Charges not paid within 60 days constitute a sewerage lien against the property, which may be foreclosed by the City.	Charges due and payable on or before the 30th day of April and shall be delinquent after that date; however, if one-half of charge is paid on or before the 30th day of April, the remainder shall be due and payable on or before the 31st day of October and shall be delinquent after that date. Liens for delinquent sewer charges against any property can be enforced and foreclosed.

Draft Sedro Woolley Municipal Code

Chapter 2.XX

STORM AND SURFACE WATER UTILITY – SYSTEM AND STRUCTURE OF RATES

Sections:

- 2.XX.010 Definitions.
- 2.XX.020 Potential hazard declared.
- 2.XX.030 System of rates and charges.
- 2.XX.040 Billing and collection.
- 2.XX.050 Delinquent charges – Enforcement of collection.
- 2.XX.060 Storm and surface water utility account.
- 2.XX.070 Appeal of charges.
- 2.XX.080 Recordation and attorneys' fees.

2.XX.010 Definitions.

- A. "City" means the city of Sedro Woolley, a municipality, and its authorized employees.
- B. "Council" means the city council of Sedro Woolley.
- C. "Customer" means a person in whose name service is rendered as evidenced by the signature on the application or contract for that service or, in the absence of a signed instrument, by the receipt and payment of bills regularly issued in his/her/its name regardless of the identity of the actual user of the service.
- D. "Equivalent residential unit (ERU)" means a configuration of development, or impervious surfaces on a parcel, estimated to contribute an amount of runoff to the city's surface water management system which is approximately equal to that created by the average developed single-family residential parcel within Sedro Woolley. One ERU is equal to 2,500 square feet of impervious surface area.
- E. "Impervious surface" means that hard surface area which either prevents or retards the entry of water in the soil mantle and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions. Impervious surfaces may include, but are not limited to, rooftops, concrete or asphalt paving, walkways, patios, driveways, parking lots or storage areas, trafficked gravel, and oiled, macadam or other surfaces which similarly impede the natural infiltration or runoff of surface water.
- F. "Parcel" means the smallest separately segregated unit or plot of land having an identified owner, boundaries, and surface area which is documented for tax purposes and given a tax account (lot) number by the Skagit County assessor.
- G. "Parcel, developed" means any parcel which has been altered by grading or filling of the ground surface, or by construction of any improvement or other impervious surface area, which affects the hydraulic properties of the parcel.
- H. "Parcel, single-family residential" means any parcel of land which is improved with a dwelling unit for occupancy by a single-family or a similar group of people. A single-family residential parcel also may be an individual dwelling, mobile home, flat or unit in a multifamily building or portion thereof for occupancy as the home, residence or sleeping place for one or more persons, provided each such dwelling, mobile home, flat or unit is owned separately.
- I. "Parcel, undeveloped" means any parcel which has not been altered by grading or filling of the ground surface, or by construction of any improvements or other impervious surface area which affects the hydraulic properties of the parcel.

J. "Public open space" shall be defined as all city parks, cemeteries, public school playgrounds, ball fields, and vacant public land, whether dedicated formally to park use or being used de facto as open space with recreation use or potential use. (Ord. XXXX § X, YYYY).

2.XX.020 Potential hazard declared.

The city council finds and declares that absent effective maintenance, operation, regulation, enforcement and improvement, existing storm and surface water drainage conditions in all drainage basins and sub-basins within the city constitute a potential hazard to the health, safety and property of city inhabitants. The city council finds further that natural and manmade storm and surface water facilities and conveyances together constitute a storm and surface water drainage system and that effective regulation and control of storm and surface water may best be achieved through formation, by the city, of a storm and surface water utility and the transfer to the utility of all storm and surface water facilities and conveyances and related rights belonging to the city. (Ord. XXXX § X, YYYY).

2.XX.030 System of rates and charges.

A. There is hereby imposed a system of rates and charges on each parcel of real property within the city served by or to which service is available by the utility established by this chapter. The charges are found to be reasonable and necessary as a means for regulation of storm and surface water within the city. This regulatory program will fund the administration, planning, design, construction, water quality programming, operation, maintenance and repair of storm and surface water system, facilities, conveyances and program. The charges per equivalent residential unit (ERU) required to support the program identified in the Comprehensive Stormwater Management Plan are \$10.00 per month in 2007, \$11.00 per month in 2008, \$12.00 per month in 2009 through 2011; provided, however, that the city reserves the right to fix, alter, regulate, revise and control the rates and charges.

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

1. Single-Family Residential Parcel. The single-family residential charge shall be equal to the charge for one ERU per month as set forth in this section for each parcel having one residential dwelling. This uniform rate is based on each single-family parcel being equal to one ERU.
2. Duplex. The charge for duplex properties shall be equal to the 1.5 times the charge for one ERU per month as set forth in this section.
3. Undeveloped Parcels. Undeveloped parcels shall not be charged under this system and structure of rates.
4. Other Parcels. The charge for all other parcels shall be based upon the total amount of measured impervious surface divided by one ERU, and rounded to the nearest whole number. The actual total monthly service charge shall be computed by multiplying the measured ERUs for a parcel by the monthly rate per ERU as set forth in this section.
5. Certain Properties Exempted. By virtue of their design for collection and conveyance of surface water runoff, city street rights-of-way, Skagit County road rights-of-way, and state of Washington highway rights-of-way shall not be charged under this system and structure of rates. Municipal, county, and state and federal parks, fishing areas, wildlife reserves, public trails and bike paths, and other designated public open spaces shall not be charged under this system and structure of rates.
6. Senior Citizen and Low Income Discount. The charge for any single-family residential unit owned and occupied by a low income elderly person shall be 20 percent of the rate otherwise applicable. For the purposes of this section, "low income elderly person" means a person who has

applied for classification as a low income elderly person and has certified he or she qualifies for exemption from all excess property taxes pursuant to the terms of RCW 84.36.381. Proof of entitlement may consist of documents or copies of documents from the county assessor's office showing that the applicant meets the necessary qualifications as set forth in RCW 84.36.381.

7. Sub-Flood Control Zone District. All properties within the city and also located within and paying charges to a sub-flood control district maintained by Skagit County shall receive a discount in the utility charge to the property in an amount equal to the district charge; provided, however, the amount of the discount shall not exceed the amount of the utility charge assessed pursuant to this chapter. The discount in the utility charge shall remain effective until such time that the sub-flood control zone district is formally dissolved by Skagit County pursuant to RCW 86.15.200.

8. On-Site Treatment and Detention Facility Discount. The charge for any parcel, other than single-family residential or duplex properties, meeting or exceeding the minimum requirements of the 2005 Department of Ecology Stormwater Management Manual for Western Washington or the Washington state Underground Injection Control Program shall be reduced by 20 percent upon application to the office of development services. It shall be the duty of the property owner to submit an application and all supporting documentation on an annual basis, with evidence of compliance with the 2005 Department of Ecology Stormwater Management Manual for Western Washington or the Washington state Underground Injection Control Program according to the requirements of the city engineer, to the office of development services.

9. NPDES Industrial Stormwater Permit Discount. The charge for any parcel, other than single-family residential or duplex properties, that has an active and valid NPDES Industrial Stormwater General Permit issued by the Department of Ecology shall be reduced by 20 percent upon application to the office of development services. It shall be the duty of the property owner to submit an application on an annual basis, with evidence of an approved stormwater pollution prevention plan (SWPPP) approved by the Department of Ecology according to the requirements of the city engineer, to the office of development services.

10. On-Site Direct Discharge Discount. By virtue of their design for collection and conveyance of surface water runoff, the charge for any parcel containing an approved on-site surface water system not connected to the city's drainage system that discharges surface water runoff directly into a water body of statewide significance and the surface water runoff meets or exceeds the water quality requirements of the latest edition of the Department of Ecology's Stormwater Management Manual for Western Washington, shall be reduced by 20 percent. It shall be the duty of the of the property owner to submit an application on an annual basis, with evidence of compliance with the latest edition of the Department of Ecology's manual, proof of discharge into an approved water body, and according to the requirements of the city engineer, to the office of development services.

11. Discounts allowed under this section shall not be cumulative. Discounts may be in effect for multiple future billing months or years provided that ongoing qualifying criteria are met. The city engineer will take such time as necessary to process requests for discounts in an orderly fashion. (Ord. XXXX § X, YYYY).

2.XX.040 Billing and collection.

Utility rates and charges for each parcel of developed real property within the city shall be computed on a monthly basis. The amount to be billed shall be included on the existing utilities bill as a separate line item. A "storm and surface water only" billing will be sent to those property owners who are not current city utilities customers. Utility rates and charges specified in this chapter shall be the responsibility of the owner in fee of any property chargeable for such service. Such charges shall be billed to the owner in fee of the property served last made known to the city, and to the last known address. It shall be the duty of every property owner within the city to

notify the office of the finance director of the fact of ownership and the address to which billing should be made. Any purchaser of property within the city shall notify the office of the finance director of the date of purchase and the proper billing address immediately upon acquisition of such interest; provided, however, that any owner in fee may designate another party to receive billing statements (such as a tenant) if such owner shall do so in writing together with a waiver of notice of such bills or any liens for delinquent accounts. This shall not relieve the owner from final liability for utility rates and charges. (Ord. XXXX § X, YYYY).

2.XX.050 Delinquent charges – Enforcement of collection. (verify for consistency with solid waste and sewer)

A. Charges made pursuant to this chapter shall become delinquent if not paid within 25 days following the billing date. If such charges are not paid by the twenty-fifth day following the billing date, interest shall accrue at the annual rate of eight percent, computed monthly, until the account is paid. In the event any billing or other service charge has not been paid within 60 days of billing, the city shall mail a first delinquency notice to the property owner and occupant if the record owner does not reside at the premises. The delinquency notice shall provide the following:

1. Notice that payment for service is overdue, an itemization of the total amount due, and that a statutory lien will be imposed;
2. A date certain by which the account must be settled, which date shall not exceed 10 days from the date of the notice; and
3. The address and telephone number of the finance department, stating that the owner or occupant may contact the department if a dispute exists as to liability for the billing or the validity of lien. The customer shall be charged \$10.00 for this first notice.

B. The city, as provided by law, shall have a lien against the premises to which storm sewer charges attach pursuant to this chapter, and may enforce such lien in any matter provided by law. Such lien shall encompass all delinquent and unpaid rates and charges for sewer service, penalties, and interest thereon, all in accordance with RCW 35.67.200. Pursuant to RCW 35.67.215, the sewerage lien shall be effective for a total not to exceed one year's delinquent service charges without the necessity of any writing or recording of the lien with the county auditor. (Ord. XXXX § X, YYYY).

2.XX.060 Storm and surface water utility account.

All money collected through utility rates and charges shall be deposited in the storm and surface water utility account as established and maintained by the finance department. (Ord. XXXX § X, YYYY).

2.XX.070 Appeal of charges.

A. Any customer making a timely payment of the city's total utilities bill who considers the city's surface water charge applied to their parcel to be inaccurate or who otherwise disagrees with the utility rate determination, may apply to the city engineer, or his/her designee, for a service charge adjustment, stating in writing the grounds for such an adjustment. The city engineer will review the case file and determine whether an adjustment to the charge is necessary to provide for reasonable and accurate application of the utility rates and charges.

B. Appeals of decisions made by the city engineer may be brought before the city council who may direct the reevaluation of the appeal.

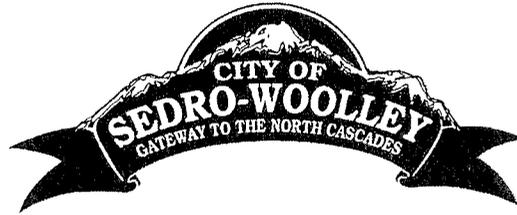
C. Any appeal under this chapter shall be filed with the city engineer no later than 20 days after initial billing. Any subsequent appeal shall be recorded with the city council within 20 days of the recorded decision of the city engineer.

D. Nothing in this chapter shall be construed to grant a right to judicial review which does not otherwise exist in law. In all cases, the decision of the city council shall be final and conclusive. (Ord. XXXX § X, YYYY).

2.XX.080 Recordation and attorneys' fees.

A. The cost of recording any documents evidencing a lien with the county auditor shall constitute an additional penalty. Such additional penalty shall be secured by the lien imposed pursuant to SWMC XX.XX.XXX.

B. The cost and expense of prosecuting any lien foreclosure action, and any disbursements made by the city pursuant thereto including reasonable attorneys' fees, shall be secured by the lien imposed pursuant to SWMC XX.XX.XXX. (Ord. XXXX § X, YYYY).



CITY OF SEDRO-WOOLLEY

PRETREATMENT ORDINANCE

ORD# ____-07

March 2007

ARTICLE 1 – GENERAL PROVISIONS

1.1 PURPOSE AND POLICY

- A. This Ordinance shall constitute chapter of the City of Sedro-Woolley Administrative Code, and may be referred to as the Wastewater Pretreatment Ordinance. This Ordinance sets forth uniform requirements for Users of the Publicly Owned Treatment Works (POTW) of the City of Sedro-Woolley, and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 USC 1251 et seq.) and the General Pretreatment Regulations (40 CFR Part 403). The objectives of this Ordinance are:
1. To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;
 2. To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;
 3. To ensure that the quality of POTW sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;
 4. To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
 5. To improve the opportunity to recycle and reclaim wastewater and sludge (biosolids) from the POTW; and
 6. To promote strategies to reduce the amounts of pollution generated by users, thereby reducing the associated hazards to the POTW and receiving waters.
- B. This Ordinance shall apply to all users of the POTW. This Ordinance defines certain prohibited discharges; sets forth local limits for use by the State agencies in the issuance of wastewater discharge permits; authorizes monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires User reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

1.2 ADMINISTRATION

Except as otherwise provided herein, the Public Works Director shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted to or duties imposed upon the Director may be delegated by the Director to other City personnel.

1.3 DEFINITIONS

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Ordinance, shall have the meanings hereinafter designated. The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

- ◆ **Accessible:** Accessible when applied to required pretreatment monitoring or treatment equipment shall mean direct access without the necessity of removing any panel, door, vehicle, equipment, materials, or other similar obstruction.
- ◆ **Act or “the Act:”** The Federal Water Pollution Control Act, also known as the Clean Water Act, (33 U.S.C. 1251 et seq), as amended.
- ◆ **AKART:** An acronym for “all known, available, and reasonable methods of prevention, control, and treatment.” AKART shall represent the most current methodology that can be reasonably required for preventing, controlling, or abating the pollutants associated with a discharge. AKART shall be applied by all Industrial and Commercial Users of the POTW. Best Management Practices are a subset of the AKART requirement.
- ◆ **Applicable Pretreatment Standards:** For any specified pollutant, City of Sedro-Woolley prohibitive standards, City of Sedro-Woolley specific pretreatment standards (local limits), State of Washington pretreatment standards, or National Categorical pretreatment standards, whichever standard is most appropriate or stringent.
- ◆ **Approval Authority:** Washington State Department of Ecology or Ecology.
- ◆ **Authorized Representative of the User:**
 - A. If the user is a corporation:
 - 1. 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 who has signing authority granted by corporate

bylaws; or

2. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons having gross annual sales or expenditures exceeding \$25 million (in second-quarter 2000 dollars), if 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, if partner has the right of signature or limited power of attorney;
 - 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 his/her designee.
 - D. The individuals described in paragraphs A through C above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City .
- ◆ **Best Management Practices (BMPs):** Schedules of activities, provisions of practices, maintenance procedures, and other management practices to prevent or reduce pollution discharge to the POTW. BMPs also include treatment requirements, operating procedures, and practices to control all discharges to the POTW.
 - ◆ **Biochemical Oxygen Demand (BOD₅):** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures during five (5) days at 20° centigrade, usually expressed as a concentration [milligrams per liter (mg/l)].
 - ◆ **Bypass:** The intentional diversion of waste streams from any portion of a user's pretreatment facility.
 - ◆ **Categorical Pretreatment Standard or Categorical Standard:** Any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of users and which appear in 40 CFR Chapter 1, Subchapter N, Parts 405-471.

- ◆ **Categorical User:** A user covered by one or more Categorical Standards as defined herein.
- ◆ **Chemical Oxygen Demand (COD):** A measure of the oxygen-consuming capacity of inorganic and organic matter present in wastewater. COD is expressed as the amount of oxygen consumed from a chemical oxidant in mg/l during a specific dose.
- ◆ **City:** Sedro-Woolley, Washington, or its authorized deputy, agent, or representative, and includes the term “Director” or his or her designee as used in this Ordinance, and the Mayor.
- ◆ **Class I User:** A commercial and/or industrial user with a waste concentration greater than 0 mg/l BOD₅ and less than 300 mg/l BOD₅.
- ◆ **Class II User:** A commercial and/or industrial user with a waste concentration greater than 300 mg/l BOD₅ and less than 900 mg/l BOD₅.
- ◆ **Class III User:** A commercial and/or industrial user with a waste concentration greater than 900 mg/l BOD₅ and less than 1,500 mg/l BOD₅.
- ◆ **Class IV User:** A commercial and/or industrial user with a waste concentration greater than 1,500 mg/l BOD₅.
- ◆ **Color:** The optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.
- ◆ **Composite Sample:** The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.
- ◆ **Control Authority:** A state entity whose pretreatment program has been approved by the EPA or a municipal entity whose pretreatment program has been approved by the duly authorized state or EPA.
- ◆ **Cooling Water/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. Cooling water may be generated from any use, such as air conditioning, heat exchangers, cooling or refrigeration to which the only pollutant added is heat.
- ◆ **County:** Skagit County, Washington or its authorized deputy, agent, or representative; Skagit County Department of Public Works, includes the Director

and authorized agents.

- ◆ **Day:** Day shall be defined as a calendar day.
- ◆ **Director:** The person designated by the City to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this Ordinance, and specifically including his/her duly authorized representative or inspector.
- ◆ **Domestic User (Residential User):** Any ERU that contributes, causes, or allows the contribution of wastewater into the POTW that is similar in volume and/or chemical makeup to domestic wastewater.
- ◆ **Domestic Wastewater:** Wastewater from residential kitchens, bathrooms, and laundries, and water-borne human wastes from sanitary facilities in all other buildings, together with such groundwater infiltration or surface waters as may be present.
- ◆ **Ecology:** The Washington State Department of Ecology or authorized representatives thereof.
- ◆ **Environmental Protection Agency (EPA):** The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.
- ◆ **Existing Source:** Any categorical user which discharges wastewater to the POTW, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.
- ◆ **Existing User:** Any non-categorical industrial user which discharges wastewater to the POTW prior to the effective date of this Ordinance.
- ◆ **Fats, Oils, and Grease (FOG):** Those components of wastewater amenable to measurement by the methods described in Standard Methods for the Examination of Water and Wastewater, 20th Edition, 1998, Section 5520, or latest edition. The term “fats, oils, and grease” shall include polar and nonpolar fats, oils, and grease.
- ◆ **Food Service Users:** Any user who operates a restaurant, café, lunch counter, take-out counter, cafeteria, bar, or club, hotel, hospital, nursing home, retirement village, sanitarium, factory, or school kitchens, or any commercial establishments where grease may be introduced to the sewer system.

- ◆ **Grab Sample:** A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and without consideration of time.
- ◆ **Grease Interceptor:** An interceptor of at least 750 gallon capacity to serve one or more fixtures and which shall be remotely located. Alternately, a UPC-approved mechanical device for grease removal.
- ◆ **Grease Trap:** A device designed to retain grease from one to a maximum of four fixtures.
- ◆ **High Strength Waste:** Any waters or wastewater have a concentration of BOD or total suspended solids in excess of 300 mg/l or having a concentration of fats, oil and grease in an excess of 100 mg/l.
- ◆ **Indirect Discharge or Discharge:** The introduction of pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act. The discharge into the POTW is normally by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all constructed devices and appliances appurtenant thereto.
- ◆ **Industrial User:** Throughout this document, the term “Industry” or “Industrial User” is meant to apply to ANY “Person” (defined in 173-216-030(13) WAC) within the POTW’s service area which has, or may have, a discharge of “industrial wastewater” (as defined below), or who would be subject to Categorical Standards promulgated by EPA if they were discharging.
- ◆ **Industrial Wastewater:** Water or liquid-carried waste from any industry, manufacturing operation, trade, business, or commercial establishment which includes process wastewater, cooling water, contaminated stormwater, contaminated leachates, or other waters in some combination such that the combined effluent differs in some way from purely domestic wastewater, or is subject to regulation under Federal Categorical pretreatment Standards, the State Waste Discharge Permit Program, or this Ordinance.
- ◆ **Interceptor:** An interceptor is a device designed and installed so as to separate and retain deleterious or undesirable matter from normal wastes and permit normal liquid wastes to discharge by gravity.
- ◆ **Interference:** The effect of a discharge or discharges on the POTW from one or more non-domestic users which results in either:
 - A. Inhibition or disruption of the POTW, its treatment processes or operations, or its sludge processes, use, or disposal;

- B. Violation of any permit regulating the POTW's wastewater discharge or sewerage sludge; or
 - C. Prevention of sewage sludge use or disposal in compliance with any applicable statutory or regulatory provision or permit issued hereunder. (Applicable sludge regulations shall include Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; the Marine Protection, Research, and Sanctuaries Act; and 40 CFR Part 503.)
- ◆ **Maximum Allowable Discharge Limit:** The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.
 - ◆ **Medical Wastes:** 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.
 - ◆ **New Source:**
 - A. Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307 (C) of the Act which will be applicable to such sources if such standards are thereafter promulgated in accordance with that section, provided that:
 1. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 2. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 3. The production of wastewater generating processes of the building structure, facility, or installation or substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

- B. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Paragraphs A(2) or (3) above, but otherwise alters, replaces, or adds to existing process or production equipment.
- C. Construction of a new source as defined herein has commenced if the owner or operator has:
 - 1. Begun, or caused to begin as part of a continuous on-site construction program, any placement, assembly, or installation of facilities or equipment; or significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for placement, assembly, or installation of new source facilities or equipment; or
 - 2. Entered into a binding contractual obligation for the purchase or facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies, do not constitute a contractual obligation under this paragraph.

- ◆ **New User:** Any non-categorical user that plans to discharge a new source of wastewater to the City’s sewerage system after the effective date of this Ordinance. This discharge may be from either a new or an existing facility. Any person that buys an existing facility that is discharging non-domestic wastewater will be considered an “existing user” if no significant changes are made in the manufacturing operation.
- ◆ **Pass Through:** A discharge which exits the POTW 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 or State Waste Discharge Permit (including an increase in the magnitude or duration of a violation) or causes a violation of any water quality standard for waters of the State promulgated under State regulations, including Chapter 173-201(A) WAC.
- ◆ **Permittee:** A person or user issued a wastewater discharge permit, or discharge authorization.
- ◆ **Person:** Any individual, partnership, firm, company, corporation, association, joint stock company, trust, estate, any federal, state, or local governmental agency or entity, or any other entity whatsoever; or their legal representatives, agents, or

assigns.

- ◆ **pH:** A measure of the acidity or alkalinity of a substance, expressed in standard units.
- ◆ **Pollutant:** Any substance, either liquid, gaseous, solid, or radioactive, discharged to the POTW which, if discharged directly, would alter the chemical, physical, thermal, biological, or radiological properties of waters of the state of Washington including pH, temperature, taste, color, turbidity, oxygen demand, toxicity, or odor. This includes any discharge likely to create a nuisance or render such waters harmful, detrimental, or injurious to any beneficial uses, terrestrial, or aquatic life, or to public health, safety, or welfare.
- ◆ **Pollution Prevention:** Source reduction; protection of natural resources by conservation; or increased efficiency in the use of raw materials, energy, water, or other resources.
- ◆ **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. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means (except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard).
- ◆ **Pretreatment Facilities:** Any device, structure or method that which will remove specified pollutants and/or chemicals from the wastewater prior to its discharge into the POTW.
- ◆ **Pretreatment Program:** An Industrial Wastewater Pretreatment Program administered by Ecology or applicable Control Authority and/or the U.S. EPA under their respective laws and regulations and includes any requirements for local municipalities necessary to assist and support Ecology and/or EPA's Program.
- ◆ **Pretreatment Requirements:** Any substantive or procedural state, local, or federal requirement related to pretreatment developed under Chapter 90.48 RCW and/or Sections 307 and 402 of the Clean Water Act.
- ◆ **Pretreatment Standards or Standards:** Any pollutant discharge limitations including categorical standards, state standards, and local limits of Article 2.4 of this Ordinance applicable to the discharge of non-domestic wastes to a POTW. The term shall also include the prohibited discharge standards of this Ordinance, WAC 173-240-060, and 40 CRF Part 403.5.

- ◆ **Process Wastewater:** Industrial wastewater discharged from one or more commercial or industrial processes or cleanup procedures. Process wastewater does not include domestic waste or non-contact cooling water. Process wastewater may refer to one process discharge or several commingled process discharges.
- ◆ **Prohibited Discharge Standards or Prohibited Discharges:** Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Sections XXXX(A) and (B) of this Ordinance.
- ◆ **Public Sewer:** A sewer constructed for conveyance of liquid wastes which is controlled by a public authority.
- ◆ **Publicly Owned Treatment Works (POTW):** Any “treatment works,” as defined by Section 212 of the Act (33 U.S.C. 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 the treatment plant. Also known as the Wastewater Treatment Plant (WWTP) and the associated collection system and all appurtenances contained within City-owned Rights-of-Way and other City-owned property.
- ◆ **Recreational Vehicle Waste (RV Waste):** Any domestic and/or residential wastes from holding tanks on private recreational vehicles, including travel trailer, pickup truck-mounted campers, and mobile domestic single-family recreational vehicles. This category does not include tour buses and public transportation vehicles. This category does not include wastes from vehicles which collect wastewater from holding tanks.
- ◆ **Self Monitoring Reports:** A report, submitted to the City, Ecology, or applicable Control Authority by the user, containing sampling test results on wastewater discharges quality and quantity. Results shall be from certified lab as required by WAC 173-216.
- ◆ **Septic Tank Waste or Septage:** Any sewage and sludge from individual wastewater disposal systems such as septic tanks and cesspools; and domestic wastes from holding tanks and chemical toilets.
- ◆ **Severe Property Damage:** Substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

- ◆ **Sewage or Wastewater:** Water-carried human wastes or a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, storm, or other waters or wastes as may be present.
- ◆ **Sewer:** Any pipe, conduit ditch, or other device used to collect and transport sewage from the generating source to the POTW.
- ◆ **Shall:** “Shall” defines a mandatory requirement.
- ◆ **Significant Industrial User (SIU):**
 - A. A user subject to categorical pretreatment standards; or
 - B. A user that:
 1. Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blowdown wastewater); or
 2. Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 3. Is designated as such by Ecology with input from the City on the basis that it, alone or in conjunction with other sources, has a reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement.
 - C. Upon finding that a user meeting the criteria in Subsection (B) has no reasonable potential for adversely affecting the POTW’s operation or for violating any applicable pretreatment standard or requirement, Ecology may at any time, on its own initiative or in response to a petition from a user or the City and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a Significant Industrial User.
- ◆ **Significant Non-Compliance (SNC):** Shall refer to a violation or pattern of violations of one of the following natures:
 - A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;

- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all wastewater measurements taken for each pollutant parameter during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC [1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH];
 - C. Any other discharge violation that the City believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of City personnel or the general public);
 - D. Any discharge of pollutants that has caused imminent endangerment to human health, welfare, or to the environment, or has resulted in the City's exercise of its emergency authority to halt or prevent such a discharge;
 - E. Failure to meet, within ninety (90) days after the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
 - F. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
 - G. Failure to accurately report non-compliance; or
 - H. Any other violation(s) which the City determines will adversely affect the operation or implementation of the Pretreatment Program.
- ◆ **Slug Load:** Any discharge at a flow rate or concentration which could cause a violation of the discharge standards in Articles 2.1 through 2.4 of this Ordinance or any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.
 - ◆ **Standard Industrial Classification (SIC) Code:** A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.
 - ◆ **State:** The State of Washington.
 - ◆ **Stormwater:** Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

- ◆ **Total Suspended Solids (TSS):** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.
- ◆ **Toxic Pollutant:**
 - A. Any pollutant or combination of pollutants listed as toxic in the regulations promulgated by EPA pursuant to authority under the Clean Water Act (“CWA” 33 U.S.C. Section 1251 et seq.), the Resource Conservation and Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA” 42 U.S.C. Section 9601 et seq.); or
 - B. Any Dangerous Waste or Extremely Dangerous Waste or Mixed Waste as listed in the regulations promulgated by the Washington State Department of Ecology pursuant to the Hazardous Waste Management Act (RCW 70.105 et seq.).
- ◆ **Treatment Plant Effluent:** The discharge from the POTW.
- ◆ **Uniform Plumbing Code:** The Uniform Plumbing Code stated shall be the Uniform Plumbing Code as adopted by the County and in effect at the time of construction.
- ◆ **Upset:** An exceptional incident causing unintentional and temporary non-compliance with applicable pretreatment standards due to 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.
- ◆ **User or Commercial and/or Industrial User:** A source of wastewater discharge to the POTW exclusive of “Domestic Users” as defined herein.
- ◆ **Wastewater:** (See Sewage.)
- ◆ **Wastewater Discharge Permit (Industrial Wastewater Discharge Permit, Discharge Permit):** An authorization or equivalent control document issued by Ecology to users discharging wastewater to the POTW. The permit may contain appropriate pretreatment standards and requirements as set forth in this Ordinance.
- ◆ **Wastewater Treatment Plant or Treatment Plant:** That Portion of the POTW designed to provide treatment of sewage as defined herein.

- ◆ **Zero Discharge Permit:** A permit for a categorical user that operates its processes so that no industrial wastewater is discharged to the POTW.

1.4 ABBREVIATIONS

The following abbreviations shall have the designated meanings:

ASPP	Accidental Spill Prevention Plan
AKART	All Known, Available, and Reasonable means of prevention, control and Treatment (see Definitions)
BOD	Biochemical Oxygen Demand
CFR	Code of Federal Regulations
CWA	Clean Water Act
COD	Chemical Oxygen Demand
EPA	U.S. Environmental Protection Agency
ERU	Equivalent Residential Unit
FIFRA	Federal Insecticide Fungicide Rodenticide Act
FOG	Fats, oils and grease
gpd	Gallons per day
l	Liter
LEL	Lower Explosive Limit
Mg	Milligrams
Mg/l	Milligrams per liter
NPDES	The National Pollutant Discharge Elimination System as defined under Section 402 of the Clean Water Act
O&M	Operation and Maintenance
OTSD	City of Sedro-Woolley
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act
SIC	Standard Industrial Classifications
SWDA	Solid Waste Disposal Act (42 U.S.C. 6901, et seq.)
TSS	Total Suspended Solids
USC	United States Code
WAC	Washington Administrative Code

ARTICLE 2 – GENERAL REQUIREMENTS

2.1

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 Federal, State, or local pretreatment standards or requirements (40 CFR 403.5(a) and WAC 173-216-060(2)(b)(i)).
- B. **Specific Prohibitions:** No user shall introduce or cause to be introduced into the POTW the following pollutants, substances or gases, either singly or combined in a waste stream:
1. Any pollutant which either alone or by interaction may create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21, (40 CFR 403.5(B)(1)), or are capable of creating a public nuisance (WAC 173-216-060(2)(b)(ii));
 2. Any pollutant which will cause corrosive structural damage to the POTW, but in no case discharges with a pH less than 5.5 or more than 10, or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the system, unless the system is specifically designed to accommodate such discharge and the discharge is authorized by a permit under the State Waste Discharge Permit program (40 CFR 403.5(b)(2) and WAC 173-216-060(2)(b)(iv));
 3. Any solid or viscous substances including fats, oils, and grease in amounts which may cause obstruction to the flow in a POTW or other interference with the operation of the POTW (40 CFR 403.5(b)(3) and WAC 173-216-060(2)(b)(iii));
 4. Any discharge of pollutants, including oxygen-demanding pollutants (BOD, etc.), released at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, is sufficient to cause interference with the POTW (40 CFR 403.5(b)(4) and WAC 173-216-060(2)(b)(vi));
 5. Any waste stream having a temperature which will inhibit biological activity in the treatment plant resulting in interference, or cause worker health or safety problems in the collection system.

In no case shall wastewater be discharged at a temperature which causes the temperature at the introduction to the POTW treatment plant to exceed 104°F (40°C) unless the system is specifically designed to accommodate such a discharge, and the discharge is authorized under the State Waste Discharge Permit Program (40 CFR 403.5(b)(5) and the WAC 173-216-060(2)(b)(v));

6. Any petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through (40 CFR 403.5(b)(6) and WAC 173-216-060(2)(b)(i));
7. Any pollutants which result in the presence of toxic gases, vapors, or fumes within any portion of the POTW in a quantity that may cause acute worker health and safety problems (40 CFR 403.5(b)(7));
8. Any trucked or hauled wastes, except at discharge points designated by the City and in compliance with all applicable City requirements and during specified hours (40 CFR 403.5(b)(8));
9. Any noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair (WAC 173-216-060(2)(b)(ii));
10. Any of the following discharges unless approved by the City under extraordinary circumstances, such as the lack of direct discharge alternatives due to a combined sewer service or need to augment sewage flows due to septic conditions (WAC 173-216-060(2)(b)(vii)):
 - (a) Non-contact cooling water in significant volume;
 - (b) Stormwater, and other direct inflow sources;
 - (c) Wastewater significantly affecting system hydraulic loading, which does not require treatment or would not be afforded a significant degree of treatment by the System;
 - (d) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, deionized water, and unpolluted wastewater;
11. Any dangerous or hazardous wastes as defined in Chapter 173-303 WAC, as amended, except as allowed in compliance with

that regulation (WAC 173-216-060(1) and 40 CFR Part 261);

12. Any substance which will cause the POTW to violate its NPDES or other disposal system permits or causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
13. Any substance which may cause the POTW's effluent or treatment residues, sludge, or scum to be unsuitable for reclamation and reuse, or would interfere with the reclamation process or cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed pursuant to the federal, state, or local statutes or regulations applicable to the sludge management method being used;
14. Any liquid, solids, or gases which either singly, in conjunction, or by interaction with other waste streams cause two (2) successive readings on an explosion meter to be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter at any point in the collection system or treatment works;
15. Anything 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. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent (10%) from the seasonably established norm for aquatic life;
16. Any discharge containing radioactive wastes or isotopes except as specifically approved by the City in compliance with applicable state or federal regulations including WAC 246-221-190 "Disposal by Release into Sanitary Sewerage System;" and meeting the concentration limits of WAC 246-221-290 Appendix A, Table 1, Column 2, and WAC 246-221-300 appendix B, and not violating any other prohibition;
17. Any sludge, screenings, or other residues from the pretreatment of industrial wastes or from industrial processes;
18. Any medical wastes or infectious wastes, except as specifically authorized by the City ;

19. Any detergents, surface-active agents, or other substances in amounts which may cause excessive foaming in the POTW;
20. Any incompatible substance such as: grease, animal guts or tissues, paunch manure, bones, hair, hides or fleshing, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes, or any other organic or inorganic matter greater than 0.5 inches (1/2-inch) in any dimension;
21. Persistent pesticides and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA);
22. Any wastewater, which in the opinion of the City can cause harm either to the sewers, sewage treatment process, or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a nuisance, unless allowed under special agreement by the City (except that no waiver shall be given from categorical pretreatment standards);
23. Any wastewater having a total fat waste, oil, or grease (whether or not emulsified), hexane or ether-soluble matter content in excess of one hundred (100) mg/L; or any substance which may solidify or become discernibly viscous at temperatures above zero degrees Centigrade (0 degree C) (32 degrees F);
24. Any wastewater having an average BOD₅ concentration more than 300 mg/l;
25. Any wastewater having an average TSS concentration more than 300 mg/l;
26. The contents of any tank or other vessel owned or used by any person in the business of collecting or pumping sewage, effluent, septage, or other wastewater unless said person has first obtained testing and approval as may be generally required by the City and paid all assessed fees for testing and discharge;
27. Any slug load, which shall mean any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a single extraordinary discharge episode of such volume or strength as to

cause interference to the POTW.

28. Any substance which may cause the POTW's effluent or treatment residues, sludges, or scums to be unsuitable for reclamation and reuse, or interface with the reclamation process.

C. 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.

2.2 FEDERAL CATEGORICAL PRETREATMENT STANDARDS

National categorical pretreatment standards as adopted and hereafter amended by the EPA pursuant to the Act shall be met by all Industrial Users of the regulated industrial categories. These standards, found in 40 CFR Chapter 1, Subchapter N, Parts 405-471, are hereby incorporated by reference.

2.3 STATE REQUIREMENTS

A. State requirements and limitations on discharges to the POTW as incorporated into Washington State Law by Chapter 90.48 RCW and implemented in Chapters 173-201A, 173-216, and 173-270 of the WAC, shall be met by all users who are subject to such standards in any instance in which they are more stringent than federal requirements and limitations or those in this Ordinance.

B. Any user determined by the City to qualify as a Significant Industrial User (SIU) shall file an application for a State Waste Discharge Permit with Ecology in accordance with the requirements of WAC 173-216-070. Proof of acceptance of the application, and payment of permit fees shall be kept at the user's facilities, and produced upon request by the City. Failure to submit the application or rejection of the application by Ecology is sufficient grounds to terminate or refuse to provide sewer service.

2.4 LOCAL LIMITS

A. The City shall have the authority to establish effluent limitations and/or require compliance with applicable effluent limitations or other pretreatment requirements. The City shall also have the authority to enforce the following limitations on wastewater strength, and any subsequent limitations adopted pursuant to this Ordinance.

B. No person shall discharge process wastewater containing concentrations in excess of the following daily maximum allowable discharge limits unless prior written approval has been obtained from the City. These limits shall apply at the point where the wastewater is discharged to the POTW (end of the pipe). All

concentrations for metallic substances are for “total” metal unless indicated otherwise. The City or applicable control authority may impose mass limitations in addition to or in place of the concentration-based limitations below. Where a user is subject to a categorical pretreatment standard and a local limit for a given pollutant, the more stringent limit or applicable pretreatment shall apply.

Material		Maximum Daily Allowable Discharge Concentration (mg/l)
Arsenic	As	0.50
Cadmium	Cd	0.11
Copper	Cu	3.38
Chromium	Cr	2.77
Cyanide	CN	0.86
Lead	Pb	0.69
Mercury	Hg	0.10
Nickel	Ni	3.98
Silver	Ag	0.43
Zinc	Zn	2.61
Total Toxic Organics (TTO)		2.13
Fats, Oil & Grease	FOG	100

2.5 CITY’S RIGHT OF REVISION

The City reserves the right to establish more stringent standards or requirements on discharges to the POTW.

2.6 **SPECIAL AGREEMENTS**

- A. The City reserves the right to enter into special agreements with users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a categorical pretreatment standard or federal pretreatment requirement. However, the user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. They may also request a variance from the categorical pretreatment standard from the Approval Authority in accordance with 403.13.

- B. The City may enter into agreements with users to accept pollutants compatible with the treatment system at greater than domestic strengths. Within such agreements, the City may establish terms of the user's discharge to the POTW including, but not limited to, maximum flow rates, and concentrations. The City may also establish fees to recover costs associated with treating such wastes and monitoring schedules in such agreements. In no case will a special agreement waive compliance with a state or federal pretreatment standard or requirement including categorical standards.

- C. Users discharging or intending to discharge pollutants other than BOD and TSS, and claiming compatibility, must prove to the satisfaction of the City, that such pollutants are compatible with the POTW. The City may require any claim of compatibility to be endorsed by Ecology.

- D. The City may assist, by arrangement or formal agreement, agencies that regulate hazardous wastes and materials, and air emissions from users in order to maximize State, County, and City resources.

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

2.7 **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 an applicable pretreatment standard or requirement unless expressly authorized by an applicable pretreatment standard or requirement. The City may impose mass limitations on users who they believe may be using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

2.8

PRETREATMENT FACILITIES

- A. **Review and Acceptance of Pretreatment Facilities:** Users shall provide necessary wastewater treatment as required to comply with this Ordinance and shall achieve compliance with all applicable pretreatment standards and requirements set forth in this Ordinance within the time limitations specified by the EPA, the State, or the City, whichever is more stringent. Users shall procure, install, operate, and maintain the wastewater facilities which, combined with appropriate practices, are necessary to achieve AKART as defined herein. Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to Ecology for review and approval in accordance with the procedures of Chapter 173-240 WAC, and shall be disclosed to the City before construction of the facility. Proof of Ecology approval should be disclosed to the City upon request. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the City under the provisions of this Ordinance. The user will obtain all necessary construction/operating permits from the City, City, County, or Ecology. Prior to completion of the wastewater pretreatment facility, the user shall furnish its plan of operations and maintenance procedures to Ecology to review. Such pretreatment facilities shall be under the control and direction of a person qualified to operate such facilities.
- B. **Standards of Pretreatment:** Users shall provide all known, available, and reasonable methods of prevention, control, and pretreatment including Best Management Practices to comply with this Ordinance and State and Federal regulations.
- C. **New Construction:** Any subsequent proposal for significant changes in pretreatment facilities or method of operation shall be reported to and be reviewed and accepted by the applicable control authority prior to the user's initiation of such changes. Proof of approval by the applicable control authority shall be disclosed to the City upon request. Any necessary construction permits shall be obtained, before new construction or modifications of an existing facility. If applicable, the user shall obtain a Discharge Permit. The review of such plans shall in no way relieve the user from the responsibility of modifying its facility as necessary to produce an effluent acceptable to the City or applicable control authority under the provisions of this Ordinance.
- D. **Submission of Plans and Reports:** Pretreatment facilities shall comply with the applicable requirements of Chapter 173-240 and Section 173.216.050(3) of the WAC, and Section 90.48.010 of the RCW. Users shall comply with approved engineering reports, plans and specifications, and operation and maintenance manuals, and shall modify such documents to reflect any proposed modifications

of pretreatment facilities. Users shall submit proposals to modify pretreatment facilities to Ecology before implementation in accordance with Chapter 173-240 WAC. Users shall submit a copy of Ecology's acceptance to the City before implementing changes to approved pretreatment facilities. Any subsequent proposal for significant changes in the pretreatment facilities or method of operation shall be reported to and be accepted by the City and/or applicable control authority prior to the user's initiation of the changes.

2.9 PRETREATMENT FACILITIES FOR FATS, OILS, AND GREASE (FOG)

A. General

1. All persons are prohibited from discharging, or causing to be discharged, processing wastewater to the collection system or POTW which contains oils, greases, solids, or liquids sufficient to cause obstruction or otherwise interfere with the proper operations of the POTW or collection system.
2. All persons are prohibited from disposing any grease waste or processing waste containing oils, greases, solids, or liquids and discharge said waste into any drainage piping, public or private sanitary sewer, storm drainage system, sufficient to interfere with the proper operation of that system, or to discharge said waste to any land, street, public way, river, stream, or other waterway.
3. All persons are prohibited from accumulating liquid waste on his property or in his possession which is injurious to public health or emits offensive odors.
4. All persons are prohibited from utilizing any chemical emulsifying agent for the purpose of hindering or eliminating the interception of fats or grease prior to entering the City's wastewater collection system.
5. Food service establishments and other facilities described in Article 2.9(D) discharging wastewater shall install, operate, clean, and maintain a sufficiently sized oil and grease, water and solids separator (herein called grease interceptor), and/or a UPC mechanical device necessary to achieve compliance with requirements set forth under this provision. No grease interceptor shall be less than 750 gallons capacity. Grease traps shall be sized according to pounds of grease retained and be compatible with UPC standards.
6. Oil or grease of petroleum or mineral origin shall not be discharged to the City 's sewer system at a concentration in excess of 100 mg/l.

7. Fats, oil, or grease of animal or vegetable origin shall not be discharged to the City's sewer system at a concentration in excess of 100 mg/l.
8. The concentration of oils and grease shall be measured in samples taken from the sampling chamber following pretreatment in an approved grease interceptor or UPC-approved mechanical device in accordance with the requirements of this section. Oil and grease concentration shall be measured using the partition-gravimetric method or the partition-infrared method outlined in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association.

B. Waste Discharge Requirements

9. Waste discharge from fixtures and equipment in establishments that may contain grease, including but not limited to scullery sinks, pot and pan sinks, vent hood drains, dishwashing machines, soup kettles and floor drains located in areas where grease containing materials may exist, may be drained into the sanitary sewer only after such discharges are pretreated in an approved grease waste interceptor and/or UPC-approved mechanical device in accordance with this section.
10. No sanitary wastes from toilets, urinals, or other similar fixtures may be discharged through any grease waste interceptor and/or UPC-approved mechanical device. All wastes shall enter the interceptor through the inlet pipe only. The use of garbage grinders/shredders into any fixture which discharges to a grease waste interceptor is prohibited.

C. Location

11. Each grease interceptor shall be so installed and connected that it shall be at all times easily accessible for inspection, cleaning, and the removal of the intercepted grease. Location of the interceptor shall meet the approval of the City, per UPC and/or Skagit County Health City Code.
12. Interceptors shall be placed as close as practical to the fixture(s) they serve.
13. Each business establishment for which a grease interceptor and/or UPC-approved mechanical device is required shall have an interceptor or device which shall serve only that establishment unless otherwise approved by the City.

D. Pretreatment Required

14. Dischargers who operate newly constructed or remodeled restaurants, meat cutting facilities, cafes, lunch counters, bakeries, cafeterias, bars, or clubs; or hotel, hospital, sanitarium, factory or school kitchens; or other establishments that serve or prepare food where grease may be introduced to the sewer system shall have pretreatment facilities to prevent the discharge of fat waste, oil, or grease.
15. Dischargers who operate automatic and coin-operated laundries, car washes, filling stations, commercial garages, or similar businesses having any type of washing facilities (including pressure washing and steam cleaning) or any other dischargers producing grit, sand, oils, lint, or other materials which have the potential of causing partial or complete obstruction of the building site sewer or other areas in the POTW shall install and maintain approved interceptors, oil/water separators, or tanks such that excessive amounts of oil, sand, and inert solids are effectively prevented from entering the POTW.

E. Design

16. Grease interceptors shall be multiple compartment flotation chambers where grease floats to the water surface and is retained while the clear water underneath is discharged. The clear water discharged is subject to the discharge prohibitions of subsection A(6) and (7) of this section.
17. The grease interceptor shall be followed by a sampling compartment to allow for monitoring of discharges from the pretreatment unit. The geometry of the sampling compartment shall be in accordance with City standard plan for grease interceptors available at the City's office. Interceptors shall have fittings designed for grease retention.
18. There shall be an adequate number of manholes to provide access for cleaning and maintenance of all areas of the interceptors and oil/water separators.

F. Sizing Criteria

19. New grease interceptors, grease traps, and mechanical grease removal devices must be sized in accordance with the Uniform Plumbing Code and any other requirements by the City as set forth herein.
20. Grease interceptors that include dishwasher effluent shall be sized and located to provide sufficient detention time to allow for cooling of the

effluent following guidelines from Appendix H of the Uniform Plumbing Code.

G. Source Control

All food establishments which deep fry, pan fry, or otherwise generate liquid or semi-solid restaurant grease shall maintain a container on site for containment of liquid and semi-solid grease wastes. This liquid or semi-solid grease shall be transported to an approved rendering plant. In no case shall free liquid grease be disposed of directly into fixtures which are connected to the sewer system. Unused butter, margarine, or other solid grease products shall not be discharged to the sewer system through garbage disposals or other means. No exceptions to the prohibitions of this subsection are allowed for fixtures which discharge to the sewer system through an approved grease interceptor. Hauling and recycling of restaurant grease shall be accomplished at a facility holding a state rendering permit, and the user shall maintain a log for disposal as described later in this Ordinance.

H. Additives

The use of any additive, such as enzymes, emulsifiers, chemicals, or bacteria is prohibited.

I. Grease Interceptor and Oil/Water Separator Pumping and Maintenance

1. Each facility required to install and maintain a grease waste interceptor, mechanical device or oil/water separator under this chapter shall provide regular maintenance to the satisfaction of the Director in accordance with the requirements set forth in this chapter.
2. Each person who removes grease waste from the grease interceptor shall, to the extent technically and mechanically possible, remove the entire content of the grease interceptor. Decanting or discharging of removed waste back into the interceptor from which the waste was removed or any other grease interceptor for the purpose of reducing the volume to be hauled is prohibited. All grease interceptors shall be maintained by the user at the user's expense.
3. Grease Removal and Grease Interceptor Pumping Frequency. All grease interceptors and/or mechanical device must be pumped out completely once every three months, or more frequently, as required by the City . Exception to this minimum frequency of pumping may be made with special written approval from the director for generators of small quantities of grease wastes. In no case shall the frequency of pumping be less than once every six months. Pumping shall include the complete removal of all contents including floating materials, wastewater, and

bottom sludges and solids.

4. Oil and Debris Removal from Oil/Water Separator Frequency. Oil/water separators must be pumped out completely when the oil level on top reaches 2 inches in thickness or the debris or sludge level occupies 25 percent of the volume, or more frequently, as required by the City. Pumping shall include the complete removal of all contents including floating materials, wastewater, and bottom sludges and debris.
5. Failure to Pump. If in the opinion of the Director pumping of the grease interceptor or the oil/water separator is required, the owner will be notified in writing and shall arrange to have the grease interceptor pumped and disposal of, at the owner's cost, within 30 days. If the owner or user does not pump within the 30 day time period, the City will arrange to have the interceptor pumped and disposal of, and will present the owner with a bill for pumping plus an administrative fee of 10 percent. The City shall bill and collect said charges in the same manner as other sewer utility rates are collected including, but not limited to, the sewer lien procedures provided under Chapter 35.67 RCW.
6. Disposal of Grease Interceptor Pumpage. All waste removed from each grease interceptor must be disposed of at a facility permitted by the Health Department in the county in which the disposal facility is located. Under no circumstances shall the pumpage be returned to any POTW or any sewer.
7. Maintenance Requirements. Each person who engages in grease waste handling shall maintain all vehicles, hoses, pumps, tanks, tools, and equipment associated with grease waste handling in good repair, free of leaks, and in a clean and sanitary condition. All hoses and valves on grease waste handling vehicles or tanks shall be tightly capped or plugged after each use to prevent leakage, dripping, spilling, or other discharge of grease wastes and any public or private property.
8. Maintenance Records. A log indicating each pumping of a grease interceptor for the previous 12 months shall be maintained by each food service establishment. A log indicating each pumping of an oil/water separator for the previous 12 months shall be maintained by the Owner or his representative. This log shall include date, time, amount pumped, hauler and disposal site, and shall be kept in a conspicuous location for inspection by Health Department or City personnel. The maintenance record log shall be recorded in the format on file with the City.

9. Maintenance Reporting. The information required in the maintenance log shall be submitted to the City annually. The reporting period is January 1st through December 31st of each year. The report shall be submitted within 30 days after the end of the reporting period.
10. Failure to Maintain. If a failure to maintain settling tanks, grit traps, grease interceptors, or oil/water separators results in partial or complete blockage of the building sewer, private sewer system discharge to the City 's sewer system, or other parts of the City 's sewer system, or adversely affects the treatment of transmission capabilities of the POTW, or requires excessive maintenance by the City , or poses a possible health hazard, the discharger responsible for the facilities shall be subject to costs associated for cleaning and maintaining the City 's sewer.

The City shall contract directly with an outside contractor to clear the blockage and/or clean the sewer and bill the owner for the cost of the work, plus an administrative fee of 10 percent. The City shall bill and collect said charges in the same manner as other sewer utility rates are collected including, but not limited to, the sewer lien procedures provided under Chapter 35.67 RCW.

11. Hazardous Material Prohibited. No person shall collect, transport, or handle any hazardous material in any vehicle used for grease waste handling.

J. Maintenance Log Format

1. All pumpage collected by haulers from grease interceptors and oil/water separator shall be verified by a maintenance log which confirms pumping, hauling, and disposal of waste. Maintenance records and maintenance reporting requirements are specified in Articles 2.9(I)8 and 9. Each person who engages in grease waste hauling shall complete the log each time such person services a grease interceptor. Such person shall provide a copy of the log to the generator of the grease waste.
2. Type I Maintenance Log Format. The Type I format shall be used when the transporter of the pumpage maintains and operates a grease waste treatment facility where such facility is permitted by the local Department of Health in the county in which the facility is located. The local Health Department Permit shall specifically cover activities associated with grease waste recycling and/or disposal activities.
3. Type II Maintenance Log Format. The Type II grease waste interceptor maintenance log format shall be used when the transporter of the pumpage does not maintain and operate a permitted grease waste treatment facility.

The Type II format shall be used by all transporters not on the list of permitted and approved grease waste receiving facilities maintained by the City. Any transporter on the approved list who does not dispose of the hauled grease waste at its own permitted treatment facility shall use the Type II format.

4. All hauling and recycling of restaurant, grease which are disposed of at an approved rendering plant shall have a record log for such hauling and disposal (Article 2.9(G)).

K. Inspection and Entry

1. Any and all premises serviced by a grease interceptor and oil/water separator and any and all records pertaining thereto shall be subject to inspection by City personnel for the purpose of determining compliance with this chapter.
2. Any and all premises and vehicles used by any person performing grease waste handling any and all records of such person which relate to such person's grease waste handling activities shall be subject to inspection by the City for the purpose of determining compliance with this chapter.

L. Existing Dischargers of Grease Wastes

1. All existing restaurants, cafes, bakeries, lunch counters, cafeterias, meat cutting facilities, bars, or clubs, or hotel, hospital, sanitarium, factory or school kitchens; or other establishments that serve or prepare food where grease may be introduced to the sewer system which do not have grease interceptors; or do not have adequately sized interceptors at the time of adoption of the Ordinance shall meet the requirement for interception of grease, oils and fats by installing an approved grease interceptor and/or UPC-approved mechanical device.
2. Approved grease interceptors or devices shall be installed within 6 months of the adoption of the Ordinance for existing facilities. Facilities will be notified in writing by the City.
3. Existing facilities which currently have grease interceptors and oil/water separators of adequate size to meet the requirements of this article shall submit drawings of the existing installation along with calculations to demonstrate the adequacy of the existing installation. If the Director determines that the existing grease interceptor and oil/water separator meets the requirements of this Article, the facility will be required to install only the sampling chamber as shown on the standard plan for grease interceptors.

2.10 **COMPLIANCE DEADLINE FOR PRETREATMENT REQUIREMENTS**

- A. Existing sources covered by one or more Categorical Pretreatment Standards shall comply with such standards within 3 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 state limits for said 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. Such time shall not exceed 90 days from the beginning of discharge. Prior to commencing discharge, such users shall install and start up all pollution control devices necessary for compliance with pretreatment standards.

2.11 **ADDITIONAL PRETREATMENT MEASURES**

- A. Whenever deemed necessary, the City may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this Ordinance.
- B. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
- C. Each user discharging more than 10,000 gallons per day or ten percent (10%) of the average daily flow into the POTW, whichever is less, may be required by the City to install and maintain, on his/her property and at his/her expense, a suitable storage and flow-control facility to ensure equalization of flow over a twenty-four (24) hour period. The facility shall have a capacity for at least 50 percent (50%) of the daily discharge volume and shall be equipped with alarms and a rate of discharge controller, the regulation of which shall be directed by the City. The City may require the user to obtain a wastewater discharge permit solely for flow equalization, or to develop a Slug Discharge Control Plan (below). Such user may be required to install an approved flow measuring device.

2.12

ACCIDENTAL SPILL/SLUG DISCHARGE CONTROL PLANS

- A. The City may require any user to install, properly operate, and maintain, at his/her own expense, facilities to prevent slug loads or accidental discharges of pollutants to the POTW. The City may require users to produce and/or implement spill plans developed in compliance with OSHA, Health, Fire, and Ecology regulations relative to discharges to the POTW. When such plans are required by the City, the user shall provide:
1. A description of discharge practices, including non-routine batch discharges;
 2. A description of stored chemicals;
 3. Procedures for immediately notifying the City of any accidental or slug load discharges, with a follow-up written notification within five (5) days; and
 4. Procedures to prevent adverse impact from any accidental or slug load discharge, including, but not limited to, the following: 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; and measures for emergency response.
- B. Users shall verbally notify the City immediately upon the occurrence of a “slug” or “accidental discharge” of substances regulated by this Ordinance and take immediate actions to correct the situation. This notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. The user shall follow-up with a written notification to the City containing the same information within five (5) days following the accidental discharge.
- C. Any user who discharges an accidental discharge or slug load shall be liable for:
1. Recovery of any resultant expenses, losses, and damages to the POTW;
 2. Recovery of any fines or settlements levied upon the City on account thereof by any government agency or court of competent jurisdiction;
 3. Applicable fines and penalties assessed by the City for noncompliance with this Ordinance.

2.13 SEPTIC OR LIQUID HAULED WASTES

- A. Septic tank and liquid waste haulers may introduce substances into the POTW only at a designated receiving structure and at such times as are established by the City. No load may be discharged without prior consent of the City.
- B. Such wastes shall not violate any discharge prohibition or standard of this Ordinance or any other requirements established by the City.
- C. Septage haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the waste hauler, permit number, truck identification, addresses of sources, and waste volume and characteristics.
- D. The City may exercise absolute discretion in whether or accept any load of septage or hauled wastes. In determining whether to accept a load, the City may collect samples of each hauled load and/or require the hauler to provide a waste analysis of any load prior to discharge.
- E. Fees for discharge of hauled wastes to the City 's POTW will be established as part of the user fee system as authorized in this Ordinance.

ARTICLE 3 – WASTEWATER DISCHARGE PERMIT REQUIREMENTS

3.1 REQUIREMENTS TO COMPLETE INDUSTRIAL USER SURVEYS

The City shall periodically notify new, existing, and potential users of the requirement to complete an industrial user survey form. Upon notification, users shall fully and accurately complete the survey form, and return the completed form to the City within 30 days of receipt. Each user shall maintain a copy of the latest completed survey form at their place of business. Failure to fully or accurately complete a survey form, or to maintain the latest survey form on the premises where a wastewater discharge is occurring shall be a violation of this Ordinance.

3.2 PERMIT REQUIREMENTS: DISCHARGE

- A. No Significant Industrial User (SIU) shall discharge wastewater into the POTW without first applying for a wastewater discharge permit from Ecology and obtaining a discharge authorization from the City. The City shall require proof of such permit application. Obtaining a wastewater discharge permit does not relieve a permittee of his/her obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of federal, state, and local law including the requirement for applying AKART.
- B. The City may require other users, including liquid waste haulers, to apply for wastewater discharge permits to uphold the provisions of this Ordinance.
- C. The City may also establish, and require users by letter, permit, or rule, to implement best management practices as determined by the applicable control authority to be representative of AKART, or to discontinue use of any substance for which an effective substitute is available which will lessen the potential for violating this Ordinance or any water quality standard, or which may represent a significant decrease either singly, or in combination with other similar users, in the toxicity of pollutant loadings to the POTW.
- D. The City encourages all users seeking authorization to discharge to the POTW to complete a pollution prevention review before submitting their request to discharge to the City. The City shall require users who must submit a pollution prevention plan under the State of Washington's Hazardous Waste Reduction Act to provide this plan to the City as a condition of initial or continued discharge.

3.3 **PERMIT REQUIREMENTS: DANGEROUS WASTE
CONSTITUENTS**

Users discharging a wastestream containing dangerous wastes as defined in Chapter 173-303 WAC (listed, characteristic, or criteria wastes) are required to comply with the following permit provisions:

- A. Obtain a written authorization to discharge the waste from the City , and either obtain specific authorization to discharge the waste in a State Waste Discharge Permit issued by Ecology, or accurately describe the wastestream in a temporary permit obtained pursuant to 90.48.165 RCW. The description shall include at least:
 - 1. The name of the dangerous waste as set forth in Chapter 173-303 WAC, and the dangerous waste number.
 - 2. The mass of each constituent expected to be discharged.
 - 3. The type of discharge (continuous, batch, or other).
- B. Compliance shall be obtained on the following schedule:
 - 1. Before discharge for new users.
 - 2. Within 30 days after becoming aware of a discharge of dangerous wastes to the POTW for existing users.
 - 3. Within 90 days after final rules identifying additional dangerous wastes or new characteristics or criteria of dangerous waste are published for users discharging a newly listed dangerous waste.

ARTICLE 4 – REPORTING REQUIREMENTS

4.1 **DISCLOSURE OF RECORDS**

All records and reports required by this Ordinance, any applicable state and federal regulation, or any permit or order issued hereunder, will be available on site for review by the City during business hours, when activities are being conducted at the facility, and at all reasonable times.

4.2 **REPORTS FROM UNPERMITTED USERS**

All Users not obligated to obtain a wastewater discharge permit from Ecology shall provide appropriate reports to the City as the Director may require. The schedule and

format of such reports, and the pollutant properties, flow rates, and other pertinent information to be reported shall be determined by the Director.

**4.3 REPORTING REQUIREMENTS: DANGEROUS WASTE
CONSTITUENTS**

Any User discharging 100 Kg or more of dangerous waste in any calendar month to the POTW where the pollutants are not reported through self monitoring under an applicable State Waste Discharge permit, shall report to the City and Ecology, the following information to the extent that it is known or readily available to the user:

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

4.4 RECORD KEEPING

- A. Users subject to this Ordinance shall retain, and make available for inspection and copying, all records of information maintained to comply with this Ordinance, a State Waste Discharge Permit, if applicable, and approved Operations and Maintenance procedures (inspections, lubrication, repair, calibrations, etc.), if applicable. Users subject to monitoring requirements shall keep records of all monitoring activities required or voluntary. Monitoring records shall include the date, exact place, method, and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses.
- B. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or POTW, or where the user has been specifically notified of a longer retention period by the City.

ARTICLE 5 – SAMPLING AND ANALYTICAL REQUIREMENTS

5.1 SAMPLING REQUIREMENTS FOR USERS

- A. **Applicable Requirements:** Users which discharge into the POTW shall abide by the applicable wastewater monitoring requirements of this Ordinance, any applicable Order, and any state or federal regulation or permit, including a State Waste Discharge permit. The City may require self-monitoring and reporting as a requirement of discharge to the POTW, or may conduct its own monitoring of any discharge.
- B. **Categorical User Sampling Requirements:** Categorical Users with combined discharges shall measure flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e). Where feasible, such users shall sample immediately downstream from any pretreatment facilities, unless the control authority determines end-of-pipe monitoring to be more stringent or applicable.
- C. **Non-Categorical Users:** All other users, where required to sample, shall measure the flows and concentrations necessary to evaluate compliance with pretreatment standards and requirements.
- D. **Data Required:** All sample results shall indicate the time, date, and place of sampling and methods of analysis, and shall certify that the samples are representative of normal work cycles and expected pollutant discharges from the User. Whenever a user samples and analyzes any regulated pollutant more frequently than required, using methodologies in 40 CFR Part 136, the results of such analysis shall be submitted with the next required discharge report.

5.2 ANALYTICAL REQUIREMENTS

All pollutant analyses required to be reported, with the exception of flow and temperature, shall be performed by a laboratory registered or accredited under the provisions of Chapter 173-50 WAC. Laboratories must be accredited for the analyses for which they are performing. Sampling and analysis techniques used in collection, preservation, and analysis, shall be in accordance with 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. Where 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses shall be performed in accordance with procedures approved by EPA or Ecology.

To ensure that the reported data is valid for determining compliance with requirements, all data shall have a detection level (DL) no greater than 25 percent of the regulatory limit included in this ordinance or applicable state or federal regulation. (i.e., for arsenic (As), with a regulatory limit of 0.50 mg/L, the DL shall be no greater than 0.125 mg/L.)

5.3 **CITY MONITORING OF WASTEWATER**

The City shall follow the procedures required of users described in Articles 5.1 and 5.2 above whenever conducting wastewater sampling of any Industrial User, when such sampling is conducted to ensure compliance with this Ordinance and applicable pretreatment standards and requirements.

ARTICLE 6 – COMPLIANCE MONITORING

6.1 **RIGHT OF ENTRY FOR INSPECTION AND SAMPLING**

- A. The City shall have the right to enter the facilities of any user to ascertain whether the purpose of this Ordinance, and any wastewater discharge permit or order issued under this Ordinance or by Ecology, is being met and whether the user is complying with all requirements thereof. Users shall allow the City 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.
- B. 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 operations so that, upon presentation of suitable identification, the Director, or his or her agents or assigns, and representatives of local, state, and federal authority will be allowed to enter without delay for the purposes of performing their respective duties.
- C. The City, in coordination with Ecology for users with State Waste Discharge Permits, shall have the right to set up on the user’s property such devices as are necessary to conduct sampling and/or metering of the user’s operations.
- 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 City and shall not be replaced. The costs of clearing such access shall be born by the user.
- E. Unreasonable delays in allowing the City access to the user’s premises shall be a violation of this Ordinance.

6.2 **MONITORING FACILITIES**

- A. Each user shall provide and operate at its own expense a monitoring facility to allow inspection, sampling, and flow measurements of each sewer discharge to the City. Such facilities may be required by Ecology or the City. Monitoring facilities shall be situated on the user’s premises, unless this would be impractical or cause undue hardship on the user. In such cases, the user must receive

permission from the City of Mukilteo to construct the facility in the public street or sidewalk area, providing it will not be obstructed by landscaping or parked vehicles.

- B. The City or applicable control authority, may require the construction and maintenance of sampling facilities at other locations (for example, at the end of a manufacturing line, wastewater treatment system) when deemed appropriate.
- C. There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. The user shall maintain the facility, sampling, and measuring equipment at all times in a safe and proper operating condition at his/her own expense.
- D. All monitoring facilities shall be constructed and maintained in accordance with all applicable City development standards and specifications. At a minimum, the monitoring equipment shall include an inspection/sampling manhole with an internal diameter of no less than 48 inches and a surface opening of no less than 24 inches. Any devices used to measure wastewater flow and quality shall be regularly calibrated to ensure their accuracy.

6.3 ACCESS AND INSPECTIONS

- A. If the City or an inspector acting as its agent has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this Ordinance, or that there is a need to inspect, as part of a routine inspection program of the City designed to verify compliance with this Ordinance or any order issued hereunder or any wastewater discharge permit issued by Ecology, or to protect the overall public health, safety, and welfare of the community, then the City shall seek access to the property or building through the **Skagit County Superior Court**.
- B. In the event the Public Works Director has reason to believe a situation represents an imminent threat to public health and safety, and where entry has been denied or the area is inaccessible, an agent of the City may enter in the company of a uniformed police officer in order to determine if the suspected situation exists, and if so, to take such actions necessary to protect the public.

6.4 VANDALISM

No person shall willfully or negligently break, damage, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in this Ordinance.

ARTICLE 7 – CONFIDENTIAL INFORMATION

7.1 CONFIDENTIAL INFORMATION

- A. Records kept by the City with respect to the nature and frequency of discharges from any user shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Public Works Director, that the release of such information would divulge information, processes or methods of production entitled to confidentiality under the law.
- B. Users shall clearly mark “confidential” on all area of reports requested to be held confidential from the public. Upon request for this information, the Public Works Director shall determine if such information is legally afforded this protection under the law. Only information marked “confidential,” which the Public Works Director determines qualifies as such, shall be withheld from the public.
- C. Documents claimed as “confidential,” however, shall not be withheld from any state or federal agency responsible for oversight of the City’s NPDES Permit or authority to implement the NPDES, or federal or state pretreatment programs. Wastewater constituents and characteristics and other “effluent data” as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

ARTICLE 8 – ADMINISTRATIVE ENFORCEMENT REMEDIES

8.1 STATE RESPONSIBILITY FOR ADMINISTRATIVE ACTIONS

The Washington State Department of Ecology is charged with permitting and regulating Significant Industrial Users of the City’s POTW. Except for emergency actions, the City shall coordinate actions in regard to control of such users with Ecology. Failure to do so, however, shall not invalidate any action of the City authorized by this Ordinance.

8.2 NOTIFICATION OF VIOLATION

- A. When the City finds that a user has violated (or continues to violate) any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the City may serve upon that user a written Notice of Violation. The City may select any means or service which is reasonable under the circumstances.
- B. Within 10 days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the City. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the

authority of the City to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

8.3 CONSENT ORDERS

- A. The City is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for non-compliance. Such consent orders shall include specific action to be taken by the user to correct the non-compliance within a time schedule also specified by the consent order.
- B. Compliance schedules, when included in consent orders, may not extend the compliance date beyond any applicable state or federal deadlines. Consent orders shall have the same force and effect as compliance orders issued pursuant to Article 8.4 below and shall be judicially enforceable. Use of a Consent Order shall not be a bar against, or prerequisite for, taking any other action against the user.

8.4 COMPLIANCE ORDERS

- A. Whenever the City finds that a user has violated, or continues to violate, any provision of this Ordinance, or order issued hereunder, the City or applicable control authority may issue a compliance order to the user responsible for the violation directing that, following a specified time period, wastewater services, including collection and treatment, may be discontinued and/or applicable penalties imposed unless adequate pretreatment facilities, devices, or other related appurtenances have been installed and are properly operated and maintained.
- B. Compliance orders may also contain such other requirements as might be reasonably necessary and appropriate to address the non-compliance, including, but not limited to, the installation of pretreatment facilities, additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged into the POTW. A compliance order may not extend the deadline for compliance beyond any applicable state or federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the user.
- C. Failure to comply with any terms or requirements of a compliance order by the user shall be an additional and independent basis for termination of wastewater services, including collection and treatment, or for any other enforcement action authorized under this Ordinance and deemed appropriate by the City.

8.5 ADMINISTRATIVE HEARING

- A. A user shall be afforded the opportunity to have or participate in an administrative hearing before the City's Board of Commissioners to contest the City's determination to impose penalties, recover costs, or establish compliance schedules. A user shall also have the right to a hearing prior to termination of a user's wastewater services.
- B. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served on an authorized representative of the user (return receipt requested) at least fifteen (15) days prior to the scheduled hearing.
- C. A administrative hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

8.6 CEASE AND DESIST ORDERS

- A. When the City finds that a user has violated (or continues to violate) any provision of this Ordinance, a Wastewater Discharge permit or order by Ecology, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur and may cause a violation of the POTW's NPDES Permit, the City may issue an order to the user directing it to cease and desist all such violations and directing the user to:
 - 1. Immediately cease such actions or discharges as described.
 - 2. Comply with all applicable pretreatment standards and requirements.
 - 3. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.
- B. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

8.7 EMERGENCY SUSPENSION OF WASTEWATER SERVICES

- A. The City or applicable control authority may immediately suspend wastewater services including collection and treatment, after notice to the user, if it appears to the City that such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to either the environment, normal operation of the POTW, or the health or welfare of any person or the general public.

- B. Any user notified of a suspension of its discharge shall immediately cease all wastewater discharges. In the event of a user's failure to immediately comply voluntarily with the suspension order, the City shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or the danger to the public. The City may allow the user to recommence its discharge when the user has demonstrated that the period of endangerment has passed, unless the termination proceedings in Article 8.8 of this Ordinance are initiated against the user.
- C. No person shall attempt to prevent the City from terminating wastewater services in an emergency situation, by barring entry, by physically interfering with City employees or contractors, or by any other means.
- D. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the City prior to the date of any show cause or termination hearing authorized by this Ordinance.
- E. Nothing in this Article shall be interpreted as requiring a hearing prior to any emergency suspension under this Article.
- F. Any suspension of wastewater services, emergency or otherwise, shall include notification to the local Health Department as shown below:

SKAGIT COUNTY HEALTH DEPARTMENT
P.O. BOX 91071
MOUNT VERNON, WA 98273-1071

**8.8 TERMINATION OF TREATMENT SERVICES
(NON-EMERGENCY)**

- A. The City shall have authority to terminate wastewater services, including collection and conveyance to the treatment plant, for any user upon determining that such user has:
 1. Refused access as allowed by this Ordinance thereby preventing the implementation of any purpose of this Ordinance.
 2. Violated any provision of this Ordinance including the discharge prohibitions and standards of Article 2.
 3. Violated any lawful order of the City issued with respect to this Ordinance.

- B. For users holding permits to discharge to the POTW, violation of any of the following conditions is also grounds for terminating discharge services:
1. Failure to accurately report wastewater constituents and characteristics.
 2. Failure to report significant changes in operations or wastewater constituents or characteristics.
 3. Violation of any condition of the user's waste discharge permit.
- C. Any suspension of wastewater services, emergency or otherwise, shall include notification to the local Health Department as shown below:

SKAGIT COUNTY HEALTH DEPARTMENT
P.O. BOX 91071
MOUNT VERNON, WA 98273-1071

ARTICLE 9 – JUDICIAL ENFORCEMENT REMEDIES

9.1 INJUNCTIVE RELIEF

When the City finds that a user has violated (or continues to violate) any provision of this Ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the City may petition the **Skagit County Superior Court** through the City's retained counsel 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 Ordinance on activities of the user. The City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

9.2 CIVIL PENALTIES

- A. A user which has violated or continues to violate any provision of this Ordinance, or order issued hereunder, or any other pretreatment standard or requirement not reserved by a permit by Ecology shall be liable to the City for a maximum civil penalty of \$10,000 per violation. Each day upon which a violation occurs or continues shall constitute a separate violation. In the case of a monthly or other long-term average discharge limits, penalties shall accrue for each day a violation occurs.
- B. In addition to the penalty amounts assessable under Article 9.2(A) above, the City may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the

cost of any actual damages incurred by the City including penalties for noncompliance with the City's NPDES Permit to the extent attributable to the user.

- C. The City shall petition the **Skagit County Superior Court** to impose, assess, and recover such sums. In recommending the amount of civil liability, the City shall consider all relevant circumstances, including but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires, and shall present this analysis as evidence in support of the recommended penalty.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

9.3 REMEDIES NON-EXCLUSIVE

The provisions in Articles 8 through 10 of this Ordinance are not exclusive remedies. The City reserves the right to take any, all, or any combination of these actions concurrently or sequentially against a non-compliant user or to take other actions as warranted by the circumstances.

ARTICLE 10 – AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

10.1 GENERAL PROHIBITED DISCHARGE STANDARDS

- A. The City may allow an affirmative defense to an enforcement action brought against it for non-compliance with the general and specific prohibitions in Article 2.1(A) and 2.1((B)3) through ((B)7) of this Ordinance. Such defense requires the user to prove to the satisfaction of the City that:
1. The user did not know or have reason to know that its discharge, along or in conjunction with discharges from other sources, would cause pass through or interference;
 2. The discharge did not change substantially in nature or constituents from the user's prior discharge when the City was regularly in compliance with its NPDES permit; and
 3. In the case of interference, the user was in compliance with applicable sludge use of disposal requirements.
- B. This defense does not relieve the user from responsibility for enforcement to recover costs.

10.2 UPSET

- A. Users shall control production of all discharges to the extent necessary to maintain compliance with applicable pretreatment standards upon reduction, loss, or failure of its pretreatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the pretreatment facility is reduced, lost, or otherwise fails.
- B. A user who wishes to establish the affirmative defense of upset to an action brought for non-compliance with applicable pretreatment standards shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
1. An upset occurred; the user can identify the cause(s) of the upset; and it was not due to improperly designed or inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation;

2. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 3. The user has submitted the following information to the POTW and treatment plant operator within 24 hours of becoming aware of the upset. If this information is provided orally, a written report must follow within five days:
 - (a) A description of the indirect discharge and cause of non-compliance;
 - (b) The period of non-compliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and
 - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the non-compliance.
- C. Users will only have the opportunity for a judicial determination on a claim of upset in an enforcement action brought for non-compliance with applicable pretreatment standards. In any such enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

10.3 BYPASS

- A. A user may allow a bypass to occur if it does not cause applicable pretreatment standards or requirements to be violated, and if it is for essential maintenance to ensure efficient operations. These bypasses are not subject to the provision of paragraphs (B) and (C) of this Section.
- B. Requirements for bypasses subject to pretreatment standards or requirements:
 1. If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW, at least ten days before the date of the bypass, if possible;
 2. An Industrial User shall give verbal notification to the City of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours of becoming aware of the bypass, and submit a written report to the City within five days of becoming aware of the bypass;
 3. The written report shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to

continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The City may waive the written report if the verbal notification has been received within 24 hours.

- C. **Exceptions:** Bypass is prohibited, and the POTW may take an enforcement action against a user for a bypass, unless:
1. Bypass was unavoidable to prevent loss of life, personal injury, or sever property damage;
 2. 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 backup 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 preventative maintenance; and
 3. The user submitted notices as required under paragraph (B) of this Section.
- D. The POTW may approve an anticipated bypass, after considering its adverse effects, and that the City determines that it will meet the three conditions listed in paragraph (C) of this Section.

ARTICLE 11 – CHARGES AND FEES

11.1 PURPOSE

- A. The City may adopt reasonable fees for reimbursement of costs of setting up and operating the City's pretreatment program.
- B. These fees relate solely to the matters covered by this Chapter and are separate from all other rates or charges for sewer services; provided that the City shall collect said charges in the same manner as other sewer utility rates are collected, including but not limited to, the sewer lien procedures provided under Chapter 35.67 RCW.
- C. Fees may include:
1. Fees for wastewater discharge authorizations, including the cost of processing the authorization applications, public noticing, issuing and administering the authorization, and reviewing monitoring reports submitted by users;

2. Fees for modifying or transferring authorizations;
 3. Fees for monitoring, inspection, surveillance and enforcement procedures including the cost of collection and analyzing a user's discharge;
 4. Fees for reviewing and responding to accidental discharge procedures and construction;
 5. Fees for preparing and executing enforcement action;
 6. Fees for filing appeals;
 7. Fees for high strength waste and industrial process flow; and
 8. Other fees as the City may deem necessary to carry out the requirements contained herein.
- D. All fees or charges will be collected by direct billing. Unless the City has been made aware of extenuating circumstances that would prevent prompt payment, all fees are payable within 30 days of the billing. Fees past due will be considered a violation of this Chapter. Users not paying fees within 60 days of the billing period may be subject to termination of service. The City may change existing or adopt new fees.

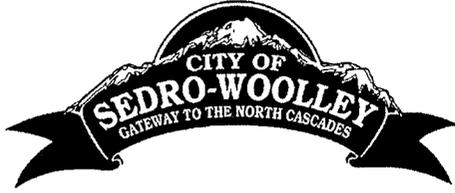
ARTICLE 12 – MISCELLANEOUS PROVISIONS

12.1 SEVERABILITY

The provisions of this Ordinance are severable, and if any provision of this Ordinance, or application of any provision of this Ordinance to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this Ordinance shall not be affected thereby.

12.2 REGULATORY CONFLICTS

All other Ordinances and parts of other Ordinances inconsistent or conflicting with any part of this Ordinance, are hereby repealed to the extent of the inconsistency or conflict.



CITY OF SEDRO-WOOLLEY
Sedro-Woolley Municipal Building
720 Murdock Street
Sedro-Woolley, WA 98284
Phone (360) 855-1661
Fax (360) 855-0707

Eron M. Berg
City Attorney

MEMO TO: City Council
RE: Adoption of the "Optional Municipal Code", RCW 35A
DATE: April 3, 2007

WORKSESSION DISCUSSION

The City of Sedro-Woolley was incorporated in 1898 and at that time, all cities and towns were formed by authority granted from the legislature through RCW title 35. Municipalities were classified as towns, third class cities, second class cities or first class cities. A select few, like Seattle were created through a municipal charter. All of the governmental power belonged to the State of Washington and only that governmental power that was expressly delegated to municipalities in RCW 35 was appropriately exercised by local citizens through their elected councils and mayors. In 1967, the legislature enacted RCW 35A as an alternative to the RCW 35 process for organizing and classifying municipalities. RCW 35A provided all cities organized under it with broader, local control.

Under the Code, cities may make any action of matters of local concern so long as they are not in conflict with the State Constitution or State statutes. What this means is that the Code city may exercise any authority, except that which is contrary to the Constitution or State law, while the second class city may exercise only the authority specifically delegated to it by statute.

The following table provides a few examples of the differences between a code city and a second class city:

<u>Code City</u>	<u>Second Class</u>
1. The Optional Municipal Code provides for broad statutory home rule authority in all matters of local concern, regardless of the size of the city.	1. A second class city has only those powers which are expressly or impliedly granted to it by the state legislature.
2. The Optional Municipal Code provides that code cities have all the powers which any city or any class of city may have consistent with the constitution of the state and not specifically denied to code cities by law.	2. A second class city has only those powers which are granted to second class cities or specifically granted to all classes of cities and towns.

<p>3. The Optional Municipal Code requires a liberal construction of the powers granted to code cities.</p>	<p>3. A second class city is governed by a rule of strict construction of the powers granted to it.</p>
<p>4. Any action may be taken by a code city at a special meeting if proper notification is given.</p>	<p>4. No ordinance may be passed, contract entered into or bill for the payment of money allowed at a special meeting in a second class city.</p>
<p>5. There is specific statutory authority for a city council to include an emergency clause in most types of ordinances where required for the protection of public health, public safety, public property or the public peace.</p>	<p>5. There is no general statutory authority for a city council to include an emergency clause with most types of ordinances, although there is specific authority for emergency expenditure of funds in certain specified situations.</p>
<p>6. A code city has specific statutory authority to appoint a councilmember pro tem in the event of the extended excused absence or disability of a councilmember.</p>	<p>6. There is no specific statutory authority for the appointment of councilmembers pro tem in a second class city.</p>
<p>7. A code city may establish a planning agency, which may be a planning department, a person, staff or body, rather than a planning commission. The city may provide for an alternate in the event of conflict.</p>	<p>7. A second class city must establish a planning commission which must consist of from three to twelve members. There is no provision for appointment of an alternate.</p>
<p>8. A code city has the authority to adopt the powers of initiative and referendum.</p>	<p>8. A second class city does not have available to it the powers of initiative and referendum.</p>
<p>9. In a code city, under the petition for election method of annexation, the signatures of qualified electors equal to only 10 percent of the votes cast at last state general election are required for a petition to annex territory.</p>	<p>9. In a second class city, under the petition for election method of annexation, the signatures of qualified voters equal to 20 percent of the votes cast in the last state general election are required.</p>
<p>10. In a code city, under the direct petition method of annexation, the signatures of the owners of property amounting to not less than 60 percent in value of all the property included in the annexation petition must be obtained.</p>	<p>10. In a second class city, under the direct petition method of annexation, the signatures of owners of property amounting to not less than 75 percent in value of all the property in the annexation petition must be obtained.</p>
<p>11. In a code city, warrants are drawn by the clerk and counter-signed by the mayor or such other person as the mayor may designate.</p>	<p>11. In a second class city, warrants must be signed by the mayor personally.</p>

12. In a code city, the city may be divided into wards without restriction on the number of wards.

12. In a second class city, the city may be divided into wards but there is a restriction upon the number of wards permitted.

This item is on your worksession agenda for an initial conversation about whether you are interested in considering adopting the optional municipal code. Currently, Sedro-Woolley is one of 14 cities in the state that have retained second class status (including, Wapato, Palouse, Chewelah, Tekoa, Omak, Colfax, Roslyn, Normandy park, Cle Elum, Ritzville, Davenport, Port Orchard and Colville). Burlington adopted the optional code last year.