

ORDINANCE NO. _____

An ordinance of the Town of Garfield, Washington, adopting Garfield Municipal Code Chapter 12.14, thereby enabling the Town to comply with State and federal laws that apply to Publicly Owned Treatment Works (POTW) operated by the Town of Garfield.

BE IT ORDAINED by the Council of the Town of Garfield as follows:

Section 1. There is hereby adopted as Garfield Municipal Code Chapter 12.14 the following:

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ARTICLE I - GENERAL PROVISIONS

12.14.010 Purpose and policy.

(A) This chapter sets forth uniform requirements for users of the Publicly Owned Treatment Works (POTW) operated by the Town of Garfield. It enables the Town of Garfield to comply with state and federal laws that apply to POTWs with significant industrial users, but without a discharge permit program. All actions required or authorities granted under this chapter are in accordance with the Clean Water Act (33 USC 1251 et seq.), the Federal Pretreatment Regulations (40 CFR Part 403), and Chapter 90.48 RCW, Water Pollution Control. The objectives of this chapter 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, which reduce the amounts of pollution generated by users, thereby reducing the associated hazards to the POTW.

(B) This chapter shall apply to all users of the POTW. This chapter defines certain prohibited discharges; sets forth local limits for use by 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 recovery of liquidated damages and collection of penalties.

12.14.020 Administration.

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

12.14.030 Abbreviations.

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

BOD - Biochemical Oxygen Demand
BMP - Best Management Practice
CFR - Code of Federal Regulations
CIU - Categorical Industrial User
EPA - U.S. Environmental Protection Agency
gpd - gallons per day
mg/l - milligrams per liter
NPDES - National Pollutant Discharge Elimination System
NSCIU - Non-Significant Categorical Industrial User
POTW - Publicly Owned Treatment Works
RCRA - Resource Conservation and Recovery Act
SIU - Significant Industrial User
TSS - Total Suspended Solids
U.S.C. - United States Code

12.14.040 Definitions.

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

(A) Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. Section 1251 on.

(B) Approval Authority. The Washington State Department of Ecology, Water Quality Program Manager.

(C) Authorized or Duly Authorized Representative of the User.

(1) If the user is a corporation:

a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

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

(D) Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).

(E) Best Management Practices or BMP. Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in GMC 12.14.050 (A) and (B) [40CFR 403.5(a)(1) and (b)]. BMPs may also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(F) Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. Section 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

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

(H) Town. The Town or the Town Council of Garfield.

(I) Composite Sample. A representative composite of samples of a waste stream taken throughout the period of a day when discharges are produced by a regulated activity. Composite samplers must interface with a flow metering device to produce a representative “flow proportionate” composite sample unless the Public Works Superintendent has determined that a flow proportionate samples are not required or the analyte is not amenable to composite sampling (pH, temperature, oil, etc.).

(J) Daily Concentration. The concentration obtained through analysis of a composite sample of all discharges over a day (or 24-hour period) or the average of all discrete samples taken over such period.

(K) Daily Limit (Maximum Daily Limit). The maximum allowable discharge of a pollutant over a calendar day or equivalent 24-hour period. Where daily limits are expressed in units of mass, compliance is the product of the Daily Concentration and the flow over the same period.

(L) Department. The Washington State Department of Ecology or authorized representatives thereof.

(M) Environmental Protection Agency (EPA). The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official.

(N) Existing Source. Any source of discharges subject to Categorical Standards and discharging prior to the promulgation of those standards or otherwise not meeting the definition of a “New Source” in this section.

(O) Grab Sample. A sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

(P) Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any nondomestic source subject to this Ordinance or other State or Federal regulations.

(Q) Instantaneous Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of a discrete sample. For analytes for which Users must take a grab sample for compliance purposes, this standard is the same as the Daily Maximum standard. For all other pollutants the Instantaneous Limit shall be twice the Daily Limit.

(R) Interference. A discharge which causes (either by itself or in combination with other discharges) a violation of the Town's state waste discharge permit or prevents the intended sewage sludge use or disposal by inhibiting or disrupting the POTW, including its collection systems, pump stations, and wastewater and sludge treatment processes. For example, a discharge from a User which causes a blockage resulting in a discharge at a point not authorized under the Town's state waste discharge permit.

(S) Local Limits. Effluent limitation developed for Users by the Public Works Superintendent to specifically protect the POTW from the potential of Pass Through, Interference, and intended biosolids uses. Such limits shall be based on the POTW's site-specific flow and loading capacities, receiving water considerations, and reasonable treatment expectations for non-domestic wastewater.

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

(U) Monthly Average. The arithmetic mean of the effluent sample results collected during a calendar month or specified 30-day period. Where the Control Authority has taken a sample during the period, it must be included in the monthly average if provided in time. However, where composite samples are required, grab samples taken for process control or by the Control Authority are not to be included in a monthly average.

(V) Monthly Average Limit. The limit to be applied to the Monthly Average to determine compliance with the requirements of this ordinance.

(W) New Source.

(1) A facility whose construction began after categorical pretreatment standards applicable to its operations were proposed and with a real or potential discharge provided the facility is:

- a) constructed at a site at which no other source is located;
- b) totally replaces the process or production equipment that generate regulated process waste streams at an existing source; or
- c) the new processes are substantially independent of an existing source at the same site.

(2) Construction at an existing source does not make the source a new source if the construction merely alters, partially replaces, or adds to existing process or production equipment.

(3) Construction of a new source is considered to have begun when the owner or operator either began significant site preparation work including earthwork or removal of structures to allow the new facilities or equipment, began constructing a facility or emplacing equipment, or entered into a binding contract to purchase necessary facilities or equipment within a reasonable time prior to operation.

(4) Users must provide documentation sufficient to conclusively substantiate any Existing Source claim with their initial permit application. Once categorized as a New Source, Users may not assert "Existing Source" status in subsequent permit renewals.

(X) 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.

(Y) Pass Through. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Town's state waste discharge permit, including an increase in the magnitude or duration of a violation.

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

(AA) pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.

(BB) Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, Carbonaceous Oxygen Demand, toxicity, or odor).

(CC) Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. Dilution is not considered pretreatment.

(DD) Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a user other than a pretreatment standard such as the proper operation of pretreatment devices, record keeping, and reporting.

(EE) Pretreatment Standards or Standards. Discharge prohibitions, categorical pretreatment standards, state pretreatment standards, local limits, and site specific limits based on potential for vapor toxicity, explosion, sewer corrosion, or other detrimental effects to the POTW.

(FF) Publicly Owned Treatment Works (POTW). A treatment works, as defined by Section 212 of the Act (33 U.S.C. Section 1292), which is owned by the Town. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

(GG) Public Works Superintendent or Director. The person designated by the Town to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance. The term also means a duly authorized representative of the Public Works Superintendent.

(HH) Septic Tank Waste. Sewage and typically associated solids from domestic activities pumped from a septic tank serving one or more private residences. The Public Works Superintendent may also consider wastes from other holding tanks such as boat blackwater, bilge water, cesspools, and treatment lagoons to be Septic Tank Waste so long as they are absent chemicals which might inhibit biological activity.

(II) Sewage. Human excrement and gray water (From household showers, toilets, kitchens, clothes and dish washing, and related domestic activities).

(JJ) Significant Industrial User (SIU).

Except as provided in paragraphs (3) and (4) of this section, a Significant Industrial User is:

- (1) A User subject to categorical pretreatment standards; or
- (2) A User that:
 - a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
 - b) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - c) Is designated as such by the Town on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- (3) The Town may determine that a User subject to categorical pretreatment standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:
 - a) The User, prior to Town's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements; and
 - b) The User never discharges any untreated concentrated wastewater.
- (4) Upon a finding that a User meeting the criteria in Subsection (2) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Town may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f) (6), determine that such User should not be considered a Significant Industrial User.

(KK) Slug Load or Slug Discharge. Any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, local limits or Permit conditions. This includes discharges at a flow rate or concentration which could cause a violation of the prohibited discharge standards of GMC 12.14.050.

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

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

(NN) User or Industrial User. A source of indirect discharge.

(OO) Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

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

ARTICLE II - GENERAL SEWER USE REQUIREMENTS

12.14.050 Prohibited discharge standards.

(A) General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes Pass Through or Interference. These general prohibitions apply to all users of the POTW whether or not they are subject to Categorical Pretreatment Standards or any other National, State, or local pretreatment standards or requirements.

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

(1) Pollutants which either alone or by interaction may create a fire or explosive hazard in the POTW, a public nuisance or hazard to life, or prevent entry into the sewers for their maintenance and repair or are in any way injurious to the operation of the system or operating personnel. This includes waste streams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21.

(2) Wastewater having a pH less than 5.0 or more than 11.0, or otherwise having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel. Discharges outside this pH range may be authorized by a permit issued by the Town pursuant to a finding that the system is specifically designed to accommodate a discharge of that pH.

(3) Solid or viscous substances in amounts which may cause obstruction to the flow in the sewer or other interference with the operation of the system. In no case shall solids greater than 1/4 inch (0.64 cm) in any dimension be discharged.

- (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW.
- (5) Wastewater having a temperature which will interfere with the biological activity in the system, has detrimental effects on the collection system, or prevents entry into the sewer. In no case shall wastewater be discharged which causes the wastewater temperature at the treatment plant to exceed 104 degrees F (40 C).
- (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through.
- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (8) Trucked or hauled pollutants.
- (9) The following are prohibited unless approved by the Public Works Superintendent under extraordinary circumstances, such as lack of direct discharge alternatives due to combined sewer service or need to augment sewage flows due to septic conditions. (As required under WAC 173-216-050)
 - a) Non-contact cooling water in significant volumes.
 - b) Stormwater, or other direct inflow sources.
 - c) Wastewaters significantly affecting system hydraulic loading, which do not require treatment or would not be afforded a significant degree of treatment by the system.
- (10) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair.
- (11) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent thereby violating the Town's state waste discharge permit.
- (12) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations.
- (13) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Public Works Superintendent.

- (14) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (15) Medical wastes, except as specifically authorized by the Public Works Superintendent in a wastewater discharge permit;
- (16) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- (17) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
- (18) Fats, oils, or greases of animal or vegetable origin in concentrations greater than three hundred (100) mg/l, or Total Petroleum Hydrocarbon concentrations of no more than one hundred (50) mg/l.
- (19) Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than ten percent (10%) or any single reading over twenty percent (20%) of the Lower Explosive Limit based on an explosivity meter reading.

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

12.14.060 National categorical pretreatment standards.

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

(A) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Public Works Superintendent may impose equivalent concentration or mass limits in accordance with paragraphs (E) and (F) of this section. (see 40 CFR 403.6(c))

(B) When categorical Pretreatment Standards are expressed in terms of a mass of pollutant which may be discharged per unit of production, the Public Works Superintendent may either impose limits based on mass or equivalent effluent concentrations. The User must supply appropriate actual or projected long term production rates for the unit of production specified in order to facilitate this process. (See 40 CFR 403.6(c)(2))

(C) The Public Works Superintendent may allow wastewater subject to a categorical pretreatment standard to be mixed with other wastewaters prior to treatment. In such cases, the User shall identify all categorical wastestreams and provide sufficient information on each non-categorical wastestream to determine whether it should be considered diluted for each pollutant. Absent information showing that non-categorical wastestreams contain the pollutant in question at

levels above that of the supply water, such wastestreams shall be considered diluted. In such situations, the Public Works Superintendent shall apply the combined wastestream formula as found at 40 CFR 403.6(e) to determine appropriate limits.

(D) When a categorical pretreatment standard is expressed only in terms of pollutant concentrations, an Industrial User may request that the Town convert the limits to equivalent mass limits. The Town may establish equivalent mass limits if the Industrial User meets all of the conditions set forth below.

(1) To be eligible for equivalent mass limits, the Industrial User must submit information with its permit application or permit modification request which:

- a) Shows it has a pretreatment system which has consistently met all applicable Pretreatment Standards and maintained compliance without using dilution.
- b) Describes the water conserving practices and technologies it employs, or will employ, to substantially reduce water use during the term of its permit.
- c) Includes the facility's actual average daily flow rate for all waste streams from continuous effluent flow metering.
- d) Determines an appropriate unit of production, and provides the present and long-term average production rates for this unit of production.
- e) Shows that long term average flow and production are representative of current operating conditions.
- f) Shows that its daily flow rates, production levels, or pollutant levels do not vary so much that equivalent mass limits would be inappropriate.
- g) Shows the daily and monthly average pollutant allocations currently provided based on the proposed unit of production.

(2) An Industrial User subject to equivalent mass limits must:

- a) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits.
- b) Continue to record the facility's flow by continuous effluent flow monitoring.
- c) Continue to record the facility's production rates.
- d) Notify the Public Works Superintendent if production rates are expected to vary by more than 20 percent from the baseline production rates submitted according to paragraph (E)(1)(d) of this section. The Public Works Superintendent may reassess and revise equivalent limits as necessary to reflect changed conditions.
- e) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraph (E)(1)(b) of this section so long as it discharges under an equivalent mass limit.

(3) Equivalent mass limits:

- a) Will not exceed the product of the actual average daily flow from regulated process(es) of the User and the applicable concentration-based daily maximum and monthly average standards (and the appropriate unit conversion factor).

- b) May be reassessed and the permit revised upon notification of a revised production rate, as necessary to reflect changed conditions at the facility; and
- b) May be retained in subsequent permits if the User's production basis and other information submitted as referenced in paragraph (E)(1) of this section is verified in their reapplication. The User must also be in compliance with GMC 12.14.520 regarding the prohibition of bypass.

(E) The Public Works Superintendent may convert the mass limits of the categorical pretreatment standards of 40 CFR Parts 414 (organic chemicals), 419 (petroleum refining), and 455 (pesticide formulating, packaging and repackaging) to concentration limits in permits for such Users. In such cases, the Public Works Superintendent will document the basis and the determination that dilution is not being substituted for treatment in the permit fact sheet.

(F) The Public Works Superintendent is obliged under federal regulations to make the documentation of how any equivalent limits were derived (concentration to mass limits or vice versa) publicly available.

(G) Once incorporated into its permit, the User must comply with the equivalent limits in lieu of the Categorical Standards from which they were derived.

(H) The same production and flow estimates shall be used in calculating equivalent limits for the monthly (or multiple day average) and the maximum day.

(I) Users subject to permits with equivalent mass or concentration limits calculated from a production based standard shall notify the Public Works Superintendent if production will significantly change. This notification is required within two business days after the User has a reasonable basis to know that that production will significantly change in the next calendar month. Users who fail to notify the Public Works Superintendent of such anticipated changes must meet the more stringent of the equivalent limits or the User's prior limits.

12.14.070 State pretreatment standards.

Washington State pretreatment standards and requirements, located at Chapter 173-216 WAC, were developed under authority of the Water Pollution Control Act, Chapter 90.48 RCW and are hereby incorporated. The version incorporated is the version current as of the date of the latest revision or version of this Ordinance. All waste materials discharged from a commercial or industrial operation into the POTW must satisfy the provisions of Chapter 173-216 WAC. The following provisions unique to Washington State are required by this chapter for discharges to a POTW:

(A) Any person who constructs or modifies or proposes to construct or modify wastewater treatment facilities must first comply with the regulations for submission of plans and reports for construction of wastewater facilities, chapter 173-240 WAC. Unless and until the Town is delegated the authority to review and approve such plans under RCW 90.48.110, Sources of non-

domestic discharges shall request approval for such plans through the Department of Ecology. To ensure conformance with this requirement, proof of the approval of such Plans and one copy of each approved plan shall be provided to the Public Works Superintendent before commencing any such construction or modification.

(B) Users shall apply to the Public Works Superintendent for a permit at least 60 days prior to the intended discharge of any pollutants other than domestic wastewater or wastewater which the Public Works Superintendent has determined is similar in character and strength to normal domestic wastewater with no potential to adversely affect the POTW. (173-216-050(1))

(C) All Significant Industrial Users must apply for and obtain a permit prior to discharge.

(D) All users shall apply all known, available, and reasonable methods to prevent and control waste discharges to the waters of the state (AKART). (173-216-050(3))

(E) Discharge restrictions of Chapter 173-303 WAC (Dangerous Waste) shall apply to all Users.

(F) Claims of confidentiality shall be submitted according to WAC 173-216-080. Information which may not be held confidential includes the: Name and address of applicant, description of proposal, the proposed receiving water, receiving water quality, and effluent data. Claims shall be reviewed based on the standards of WAC 173-216-080, Chapter 42.17 RCW, Chapter 173-03 WAC, and RCW 43.21A.160.

(G) Persons applying for a new permit or a permit renewal or modification which allows a new or increased pollutant loading shall publish notice for each application in the format provided by the Town. Such notices shall fulfill the requirements of WAC 173-216-090. These requirements include publishing:

- (1) The name and address of the applicant and facility/activity to be permitted;
- (2) A brief description of the activities or operations which result in the discharge;
- (3) Whether any tentative determination which has been reached with respect to allowing the discharge;
- (4) The address and phone number of the office of the Public Works Superintendent where persons can obtain additional information;
- (5) The dates of the comment period (which shall be at least 30 days);
- (6) How and where to submit comments or have any other input into the permitting process, including requesting a public hearing.

(H) The Public Works Superintendent may require the applicant to also mail this notice to persons who have expressed an interest in being notified, to state agencies and local governments with a regulatory interest, and to post the notice on the premises. If the Public Works Superintendent determines there is sufficient public interest the Town shall hold a public meeting following the rules of WAC 173-216-100. The Public Works Superintendent may assume responsibility for public notice requirements for any Person, and may waive this requirement for

persons applying for a general permit, model permit, short term discharge authorization, or is a food service establishment.

(I) Permit terms shall include, wherever applicable, the requirement to apply all known, available, and reasonable methods of prevention, control, and treatment.

(J) All required monitoring data shall be analyzed by a laboratory registered or accredited under the provisions of Chapter 173-50 WAC, except for flow, temperature, settleable solids, conductivity, pH, turbidity, and internal process control parameters. However, if the laboratory analyzing samples for conductivity, pH, and turbidity must otherwise be accredited, it shall be accredited for these parameters as well.

12.14.080 Local limits.

(A) The Public Works Superintendent may establish local limits pursuant to 40 CFR 403.5(c).

(B) The following pollutant limits are established to protect against pass through and interference and reflect the application of reasonable treatment technology. No person shall discharge wastewater in excess of the following daily maximum limits if the total mass discharged would exceed that contained in 1,000 gallons at the below limit (see column to the right of each pollutant concentration limit).

(C) The below limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. The Public Works Superintendent may impose mass limits in addition to a concentration based limits.

(D) Users discharging BOD, TSS, or ammonia in excess of the concentration limits by more than the threshold amount must apply for a permit. For example, a User discharging 2,000 gallons per day of BOD at 450 mg/l. The surchargeable concentration would be 450-300 or 150 mg/l, which when multiplied by 2,000 gpd (& 8.34 lb/g) yields 2.5 lb/d. Such Users shall be subject to surcharges as established by the Public Works Superintendent under the authority of this chapter up to the “ceiling” loading limit established by permit.

(E) Users shall be subject to “instantaneous limits” (as determined by a grab sample) of equal to twice the below “daily maximum” concentrations for any pollutant for which a composite sample is required in a permit. This provision is inapplicable to Users without permits, or without the permit requirement to collect a composite sample for the analyte in question.

CONVENTIONAL SURCHARGE POLLUTANTS

300	mg/l BOD5	10 lb/d
300	mg/l total suspended solids	10 lb/d
60	mg/l ammonia	.5 lb/d

PROTECTION OF SEWER LINE BLOCKAGE

100	mg/l Oil and grease of animal or vegetable origin	Any amount
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PROTECTION AGAINST CORROSION, PASS THROUGH, & INTERFERENCE

50	mg/l hydrocarbon based oil/grease	Any amount
0.5	mg/l sulfides (H2S vapor toxicity threshold)	.004 lb/d
50.0	mg/l sulfates	0.4 lb/d
1,000	mg/l total chloride	8 lb/d
5,000	mg/l total dissolved solids	40 lb/d
1,000	mg/l Total Organic Solvents (incl. alcohols)	8 lb/d
5	Minimum pH in Standard Units	
11	Maximum pH in Standard Units	
10%	reduction in effluent UV transmissivity (per cm at 254nm wavelength)	
10%	decrease in the maximum effluent concentration which has no observable detrimental effect (NOEC) in any whole effluent toxicity test.	

(F) The Public Works Superintendent shall use the individual permit process to establish ceiling limits for compatible pollutants and appropriate discharge limits for all other pollutants not listed under section 2.4. This includes pollutants subject to regulation under RCRA, volatile or semi-volatile organics, halogenated or brominated compounds, poly-aromatic hydrocarbons, polymers, surfactants, pesticide active ingredients, etc.

(G) The Public Works Superintendent may establish and require Best Management Practices for any category of User or type of industrial process which creates a non-domestic waste stream. Such requirements may be applied either in lieu of or in addition to the local limits of section 2.4. BMPs may also include alternative limits which may be applied at the end of a specific process or treatment step instead of at the combined effluent.

12.14.090 Town's right of revision.

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

12.14.100 Special agreement.

(A) The Town may enter into agreements with users to accept pollutants compatible with the treatment system at concentrations greater than those typical of domestic wastewater. Users with BOD or TSS levels higher than 300 mg/l must have such an agreement before commencing discharge. Within such agreements, the Town may establish terms of the user's discharge to the

POTW including maximum flow rates, and concentrations. The Town 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.

(B) Users discharging or intending to discharge pollutants other than BOD and TSS, and claiming compatibility, must prove to the satisfaction of the Public Works Superintendent that such pollutants are compatible with the POTW. The Public Works Superintendent may require any claim of compatibility to be endorsed by the Department.

12.14.110 Dilution.

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

ARTICLE III - PRETREATMENT OF WASTEWATER

12.14.120 Pretreatment facilities.

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in GMC 12.14.050 of this ordinance within the time limitations specified by EPA, the State, or the Public Works Superintendent, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense, and satisfy state requirements for review and approval of Plans for Wastewater Facilities as described in GMC 12.14.070. Such plans (Engineering Report, Plans and Specifications, and Operation and Maintenance Manuals) shall be submitted as required by Chapter 173-240 WAC to either the Public Works Superintendent or the Department of Ecology for review, and Users shall obtain approval prior to construction. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Town under the provisions of this ordinance.

12.14.130 Compliance with applicable pretreatment requirements.

New sources and new users as defined herein shall comply with applicable pretreatment standards within the shortest feasible time. In no case shall such time exceed 90 days from beginning a discharge. Prior to commencing discharge, such users shall have all pollution control equipment required to meet applicable pretreatment standards installed and in proper operation.

12.14.140 Additional pretreatment measures.

(A) The Public Works Superintendent may immediately and effectively halt or prevent any discharge of pollutants to the POTW which reasonably appear to present an imminent endangerment to the health or welfare of persons. In such cases, the Public Works Superintendent will provide the User advance notice if possible, but shall not delay a response to imminent endangerment.

(B) The Public Works Superintendent may halt or prevent any discharge to the POTW which presents or may present an endangerment to the environment or which threatens to interfere with the operation of the POTW (including the collection system and pump stations). In such cases, the Public Works Superintendent shall attempt to provide not only notice to the affected User(s), but the opportunity to respond.

(C) Any User causing the Public Works Superintendent to exercise the emergency authorities provided for under paragraphs (A) and (B) of this section shall be responsible for reimbursement of all related costs to the Town.

(D) The Public Works Superintendent may require Users to reduce or curtail certain discharges to the sewer, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and take all other measures to protect the POTW and determine the user's compliance with the requirements of this ordinance.

(E) The Public Works Superintendent, based on the determination that such devices are necessary for implementation of pretreatment requirements, may require any User to install and maintain, on their property and at their expense the following devices:

- (1) A sample taking facility accessible to the Public Works Superintendent.
- (2) A suitable storage and/or flow equalization tank.
- (3) Grease, oil, and/or grit interceptors.
- (4) An approved combustible gas detection meter.

(F) Users installing any of the above devices shall ensure they are of the type and capacity approved by the Public Works Superintendent, meet applicable building and plumbing codes, and conform to any separate requirements established by the Town. Users shall locate units in areas easily accessible for cleaning and inspection by representatives of the Public Works Superintendent. Users shall be responsible for all periodic inspection, cleaning, and repair of such devices.

12.14.150 Accidental discharge/slug discharge control plans.

The Public Works Superintendent may require any User to develop and implement an accidental discharge / slug discharge control plan and take other actions the Public Works Superintendent

believes are necessary to control discharges which may be caused by spills or periodic non-routine activities. Accidental discharge / slug discharge control plans shall include at least the following:

- (A) A description of all discharge practices, including any non-routine batch discharges such as from cleaning, replenishment, or disposal;
- (B) A description of all stored chemicals, disclosing all ingredients in formulations which could violate a discharge prohibition if discharged to the sewer;
- (C) The procedures for immediately notifying the Public Works Superintendent of any accidental or slug discharge, as required by GMC 12.14.210; and
- (D) The procedures that will be taken to prevent the occurrence or adverse impact from any accidental or slug discharge. Such procedures shall address the inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

12.14.160 Hauled wastewater.

The Town of Garfield shall not accept hauled wastewater to be introduced into the POTW at any time or location.

ARTICLE IV - WASTEWATER DISCHARGE PERMITS

12.14.170 Industrial User Surveys.

(A) The Town is obligated under Federal law to identify all Users potentially subject to the pretreatment program, and the character and volume of pollutants discharged by such Users. To satisfy this requirement, all sources of non-domestic discharges to the POTW must, upon request of the Public Works Superintendent, periodically complete an Industrial User Survey form. Users shall fully disclose the information requested and sign the completed form in accordance with Section (B) and (C) below. Proper completion of survey requirements is a condition of initial and continued discharge to the public sewer system. Users failing to fully comply with survey requirements within 30 days shall be subject to all enforcement measures authorized under this chapter including termination of service. The Public Works Superintendent is authorized to prepare several forms for this purpose and require completion of the particular form which the Public Works Superintendent determines appropriate to provide the information needed to categorize each User. The Public Works Superintendent shall be authorized to categorize each User, provide written notice of a User's categorization and what it means, and revise this categorization at any time.

(B) All survey forms, wastewater discharge permit applications, and user reports must be signed by an authorized representative of the user and contain the following certification statement:

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

(C) Users shall submit a new authorization if the designation of an authorized representative is no longer accurate. This includes when a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company. The User must submit the new authorization prior to or with any reports to be signed by the new authorized representative.

12.14.180 Wastewater discharge permitting – Requirements for discharge.

(A) No significant industrial user (SIU) shall discharge wastewater into the POTW without first obtaining a statement from the Public Works Superintendent that the POTW has the hydraulic and/or loading capacity to accept the discharge. Each SIU must also comply with the state requirements listed in GMC 12.14.070, and in particular, apply for and receive a wastewater discharge permit from the Department, which authorizes the discharge. The Public Works Superintendent may require proof of application as a condition of new or continued discharge. Obtaining a wastewater discharge permit does not relieve an SIU 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 regulation including the requirement for applying AKART.

(B) The Public Works Superintendent may require other users, including liquid waste haulers, to apply for, and obtain, applicable wastewater discharge permits as necessary to carry out the purposes of this chapter.

(C) The Public Works Superintendent may also establish, and require users by letter, permit, or rule, to implement those best management practices determined by the Public Works Superintendent to be representative of AKART, or to discontinue use of any substance for which an effective substitute is available which will either:

- (1) lessen the potential for violating this chapter or any water quality standard, or
- (2) 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 Town encourages all users seeking authorization to discharge to the POTW to complete a pollution prevention review before submitting their request to discharge to the Public Works Superintendent. The Town may require users who must submit a pollution prevention plan under the state's Hazardous Waste Reduction Act to provide this plan to the Public Works Superintendent as a condition of initial or continued discharge.

(E) Whenever a moratorium has been imposed upon the POTW preventing the addition of new users, the Public Works Superintendent may require any or all users of the POTW to develop plans to reduce their discharges through water reuse, recycling, reclamation or other applicable management practices, and to implement such plans or other measures deemed appropriate by the Public Works Superintendent to preserve the availability of public sewage treatment services.

12.14.190 Wastewater discharge permit decisions.

After receipt of a complete wastewater discharge permit application, the Public Works Superintendent will determine whether or not to issue a wastewater discharge permit. The Public Works Superintendent may deny any application for a wastewater discharge permit or require additional safeguards, reports (including plans under Chapter 173-240 WAC), or information. For Users not meeting the criteria of Significant Industrial Users, the Public Works Superintendent may also waive or defer a permit, or allow discharges in the interim while a permit is being prepared.

ARTICLE V – REPORTING REQUIREMENTS

12.14.200 Disclosure of records.

Each user shall have available at the location of discharge all records and reports required by this chapter, any applicable state and federal regulation, or any permit or order issued thereunder. Each user shall make such records available for review by the Public Works Superintendent during business hours, when activities are being conducted at the facility, and at all reasonable times. Failure to comply with this provision is a violation of this chapter.

12.14.210 Reports of potential problems—Unpermitted users.

(A) Any User which has any unusual discharge that could cause problems to the POTW must immediately notify the Public Works Superintendent by telephone of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user to control and curtail the discharge. Such discharges may include spills, slug loads, accidental discharges, or other discharges of a non-routine, episodic nature. Problems to the POTW which require reporting under this section include violating pretreatment prohibitions, treatment standards, or other requirements of Article II of this Ordinance such as vapor toxicity and explosivity limits.

(B) Within five (5) days following such discharge, the User shall submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

(C) Regardless of whether the User has been required to submit a Slug Discharge Control Plan (per GMC 12.14.150), all Users shall post notice in a prominent location advising employees who to call at the POTW to inform the Public Works Superintendent of a potential problem discharge. Users shall ensure that all employees who may cause or witness such a discharge are advised of the emergency notification procedures.

(D) All Users must immediately notify the Public Works Superintendent of any changes at their facility which might increase their potential for a slug discharge. This includes increasing the volume of materials stored or located on site which, if discharged to the POTW, would cause problems. Users required to prepare a Slug Discharge Control Plan under GMC 12.14.150 shall also modify their plans to include the new conditions prior to, or immediately after making such changes.

(E) All users not required to obtain a wastewater discharge permit or general permit shall provide appropriate reports to the Public Works Superintendent as the Public Works Superintendent may require. This includes periodically completing and signing Industrial User Surveys.

12.14.220 Permit requirements for dangerous waste constituents.

Users discharging a waste stream containing dangerous wastes as defined in Chapter 173-303 WAC and/or 40 CFR (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 Public Works Superintendent, and either obtain specific authorization to discharge the waste in a state waste discharge permit issued by the Department, or accurately describe the waste stream in a temporary permit obtained pursuant to RCW 90.48.165. 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; and
- (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.

(C) Users must report all discharges of more than thirty-three (33) pounds per month of substances which, if otherwise disposed of, would be hazardous wastes. Users must also report any discharge of acutely hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Subsequent months during which the user discharges more of a hazardous waste for which notice has already been provided do not require another notification to EPA or the State, but must be reported to the Public Works Superintendent.

(D) If new regulations under RCRA describe additional hazardous characteristics or substances as a hazardous waste, the User must provide notifications under paragraphs A, if required by paragraph C within ninety (90) days of the effective date of such regulations.

(E) For any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical and shall describe that program and reductions obtained through its implementation.

(F) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

12.14.230 Analytical requirements.

All pollutant sampling and analyses required under this ordinance shall conform to the most current version of 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for a pollutant, or the Public Works Superintendent determines that the Part 136 sampling and analytical techniques are inconsistent with the goal of the sampling, the Public Works Superintendent may specify an analytical method. If neither case applies, Users shall use validated analytical methods or applicable sampling and analytical procedures approved by EPA.

12.14.240 Sample collection.

Users must ensure all samples they collect to satisfy sampling requirements under this ordinance are representative of the range of conditions occurring during the reporting period. Users must also ensure that, when specified, samples are collected during the specific period.

(A) Users must use properly cleaned sample containers appropriate for the sample analysis and sample collection and preservation protocols specified in 40 CFR Part 136 and appropriate EPA guidance.

(B) Users must obtain samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds using grab collection techniques.

(C) For certain pollutants, Users may composite multiple grab samples taken over a 24-hour period. Users may composite grab samples for cyanide, total phenols, and sulfides either in the laboratory or in the field, and may composite grab samples for volatile organics and oil & grease in the laboratory prior to analysis.

(D) For all other pollutants, users must employ 24-hour flow-proportional composite samplers unless the Public Works Superintendent authorizes or requires an alternative sample collection method.

(E) The Public Works Superintendent may authorize composite samples for parameters unaffected by the compositing procedures, as appropriate.

(F) The Public Works Superintendent may require grab samples either in lieu of or in addition to composite sampling to show compliance with instantaneous discharge limits.

(G) In all cases, Users must take care to ensure the samples are representative of their wastewater discharges.

12.14.250 Date of receipt of reports.

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

12.14.260 Record keeping.

(A) Users subject to reporting requirements of this ordinance shall retain the below records for all monitoring required by this ordinance and for any additional monitoring which could be used to satisfy minimum monitoring requirements. Users must make these records available for inspection and copying at the location of the discharge. Users must similarly maintain documentation associated with any Best Management Practices required under authority of GMC 12.14.080(C). Monitoring records shall include at least:

- (1) The time, date, and place of sampling
- (2) The sampling and preservation methods used
- (3) The person taking the sample, and persons with control of the sample prior to analysis.
- (4) The person performing the analyses and the date the analysis was completed;
- (5) The analytical techniques or methods used; and

(6) The results of analysis.

(B) Users are encouraged to retain quality control and quality assurance information provided by the laboratory and submit this information in routine reporting. This information also has value in the event that the sample data is called into question. For analytes for which Washington State requires use of a certified/accredited laboratory, Users must maintain the scope of accreditation for laboratories performing any analyses for them.

(C) Users shall maintain the above records for at least three (3) years, until any litigation concerning the User or the Town is complete, or for longer periods when the user has been specifically notified of a longer retention period by the Public Works Superintendent.

ARTICLE VI - COMPLIANCE MONITORING

12.14.270 Right of entry—Inspection and sampling.

(A) The Public Works Superintendent shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the Public Works Superintendent 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 personnel so that, upon presentation of suitable identification, the Public Works Superintendent will be permitted to enter without delay for the purposes of performing specific responsibilities.

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

(D) Users shall provide full access to the Public Works Superintendent to use any monitoring facilities and utilities available or required in accordance with GMC 12.14.120 and 12.14.140(E) and (F) to confirm that the standards or treatment required for discharge to the sewer are being met.

(E) 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 Public Works Superintendent and shall not be replaced. The costs of clearing such access shall be borne by the user.

(F) Any unreasonable delay in allowing the Public Works Superintendent full access to the user's premises and wastewater operations shall be a violation of this ordinance.

12.14.280 Monitoring facilities.

(A) Any user notified by the Department or the Town that monitoring facilities are required shall provide and operate at its own expense a monitoring facility to allow proper inspection, sampling, and flow measurements of each sewer discharge to the POTW. 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 Town of Garfield may allow the user to construct the facility in the public street or sidewalk area, providing it will not be obstructed by landscaping or parked vehicles.

(B) When the Public Works Superintendent or the Department determine it is appropriate, they may require a user to construct and maintain monitoring facilities at other locations (for example, at the end of a manufacturing line or wastewater treatment system).

(C) There shall be ample room in or near such monitoring facilities 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 the user's expense.

(D) All wastewater monitoring facilities shall be constructed and maintained in accordance with all applicable construction standards and specifications. All devices used to measure wastewater flow and quality shall be regularly calibrated, but no less frequently than annually, to ensure their accuracy. Calibration records shall be available for inspection by the Public Works Superintendent.

12.14.290 Search warrants.

The Public Works Superintendent, as assisted by the Police Department, may seek issuance of a search warrant from the Whitman County Superior Court. Such warrants may be secured when:

- (1) The Public Works Superintendent has been refused access or is unable to locate a representative who can authorize access to a building, structure, or property, or any part thereof, and has probable cause that a violation of this ordinance is occurring on the premises.
- (2) The Public Works Superintendent has been denied access to inspect and/or sample as part of a routine inspection and sampling program of the Town designed to verify compliance with this ordinance or any permit or order issued hereunder, or
- (3) The Public Works Superintendent has cause to believe there is imminent endangerment of the overall public health, safety and welfare of the community by an activity on the premises.

The Public Works Superintendent shall be accompanied by a police officer when serving a search warrant for the purposes specified in this section.

12.14.300 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 forth in Washington State criminal law and/or in this chapter.

ARTICLE VII - CONFIDENTIAL INFORMATION

12.14.310 Confidential information.

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

- (1) When a User submits information to the Public Works Superintendent, or provides information to inspectors, Users may request that specific information be maintained as confidential. Users must promptly identify the specific information in writing, and describe why the release would divulge information, processes, or methods of production entitled to protection as trade secrets or confidential business information under applicable State or Federal laws.
- (2) The Public Works Superintendent shall review and approve or deny such requests. When approved, the information shall not be available as public records and shall be marked Confidential.
- (3) All other information submitted to the Public Works Superintendent and obtained from the Public Works Superintendent's oversight shall be available to the public subject to the Town's records review policy.
- (4) Information held as confidential may not be withheld from governmental agencies for uses related to the pretreatment program, or in enforcement proceedings involving the person furnishing the report.
- (5) Federal rules prevent wastewater constituents and characteristics and other effluent data, as defined by 40 CFR 2.302 from being recognized as confidential information.

ARTICLE VIII – ADMINISTRATIVE ENFORCEMENT REMEDIES

12.14.320 State responsibility for administrative actions.

The Department is charged with permitting and regulating significant industrial users (SIUs) discharging to the Town POTW. Except for emergency actions, it shall be the policy of the Public Works Superintendent to coordinate actions in regard to control of such users with the Department until such time as a local pretreatment program for the Town may be authorized by the state. Failure to conduct such coordination, however, shall not invalidate any action of the Town authorized by this chapter.

12.14.330 Notification of violation.

The Public Works Superintendent may serve a written Notice of Violation on any User that the Public Works Superintendent finds has violated any provision of this ordinance, including terms or requirements of a permit, order, or a pretreatment standard or requirement. In all cases in this ordinance, a continuation of a violation of a provision of this ordinance is a “violation”. Users shall, in response to a Notice of Violation, provide the Public Works Superintendent a written explanation of the violation, its cause, and a corrective action plan within thirty (30) days of receiving this notice. Users submitting plans to correct noncompliance must include the specific actions they will take to correct ongoing and prevent future violations at the soonest practicable date. The Public Works Superintendent’s acceptance of a plan does not relieve a User of liability for any violations. The Public Works Superintendent may also take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

12.14.340 Consent orders.

The Public Works Superintendent may enter into a Consent Order or other voluntary agreement to memorialize agreements with Users violating any requirement of this ordinance. Such agreements must include the specific action(s) required and date(s) they are to be completed to correct the noncompliance. Such documents must be constructed in a judicially enforceable manner, and have the same force and effect as administrative orders issued pursuant to GMC 12.14.360 and 12.14.370.

12.14.350 Show cause hearing.

The Public Works Superintendent may propose actions in response to a violation of any provision of this ordinance, including a provision of a permit, order, or a pretreatment standard or requirement. The Public Works Superintendent may order a User in violation to appear at a date, time, and location set by the Public Works Superintendent to show why the proposed enforcement action should not be taken. The Public Works Superintendent will notify the User of the violation, the proposed action, the rationale, and the User’s rights and obligations to provide evidence why the proposed enforcement action should not be taken, and to provide its support for any alternative it proposes at this meeting. This notification shall be served personally or by registered or certified mail (return receipt requested) at least twenty (20) days prior to the hearing.

Such notice may be served on any authorized representative of the user as defined in GMC 12.14.040. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

12.14.360 Compliance orders.

The Public Works Superintendent may issue a compliance order to any user which has violated any provision of this ordinance including a requirement of a permit, order, or a pretreatment standard or requirement. The compliance order may direct that the user come into compliance within a specified time, install and properly operate adequate treatment facilities or devices, or take such measures as the Public Works Superintendent finds are reasonably necessary. These measures may include additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, or relieve a User of liability for any violation, including a continuing violation. If the user does not come into compliance within the time provided, sewer service may be discontinued. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

12.14.370 Cease and desist orders.

When the Public Works Superintendent 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, or that the user's past violations are likely to recur, the Public Works Superintendent may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- (1) Immediately comply with all requirements; and
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

12.14.380 Administrative fines.

(A) When the Public Works Superintendent 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 Public Works Superintendent may fine such user in an amount not to exceed ten thousand dollars (\$10,000). Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

(B) The Public Works Superintendent may add the costs of any emergency response, additional monitoring, investigation, and administrative costs related to the noncompliance and the Public Works Superintendent's response to the situation to the amount of the fine.

(C) The Public Works Superintendent will consider the economic benefit enjoyed by a User as a result of the noncompliance in cases where there appears to have been a monetary benefit from not complying. In such cases, the Public Works Superintendent shall ensure that fines, to the maximum amounts allowable, exceed the benefit to the User from the noncompliance.

(D) Unpaid charges, fines, and penalties shall, at thirty (30) calendar days past the due date, be assessed an additional penalty of one percent (1%) of the unpaid balance, and interest shall accrue thereafter at a rate of one percent (1%) per month. After thirty days the Town shall be authorized to file a lien against the user's property for unpaid charges, fines, and penalties.

(E) Users desiring to dispute such fines must file a written request for the Public Works Superintendent to reconsider the fine along with full payment of the fine amount within fifteen (15) working days of being notified of the fine. Where a request has merit, the Public Works Superintendent may convene a hearing on the matter. In the event the user's appeal is successful, the Town shall rebate the difference between the initial and final penalty amounts to the user.

(F) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

12.14.390 Emergency suspensions.

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

(B) Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. If a User fails to immediately comply voluntarily with the suspension order, the Public Works Superintendent may take such steps as deemed necessary to protect the public and its interest in the sewer system. Remedies available to the Public Works Superintendent include:

- (1) immediately severing the sewer connection, at the Users expense,
- (2) turning off pump stations downstream of the User, and
- (3) partnering with law enforcement.

The Public Works Superintendent may not allow the User to recommence its discharge until the User has demonstrated to the satisfaction of the Public Works Superintendent that the situation warranting the suspension has been properly addressed and any proposed termination proceeding has been resolved.

(C) A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence. Users shall submit this report to the Public Works Superintendent prior to the date of any show cause or termination hearing referenced under GMC 12.14.350 and GMC 12.14.400.

(D) Nothing in this section shall be interpreted as requiring a hearing prior to any Emergency Suspension under this section.

12.14.400 Termination of discharge.

(A) Any User who violates the following conditions is subject to having the privilege of discharging to the public sewer system withdrawn:

- (1) Discharge of non-domestic wastewater without a permit, including
 - a) where the appropriate permit has not been requested,
 - b) where the appropriate permit has not yet been issued, or
 - c) where the permit has been denied or revoked.
- (2) Violation of permit terms and conditions including
 - a) exceeding any permit limit,
 - b) failing to meet other pretreatment standards or requirements,
 - c) violating any prohibition, or
 - d) failing to properly monitor and report discharges or changed conditions.
- (3) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; (whether subject to a permit or not); or
- (4) Violation of the pretreatment standards and requirements in Article II of this ordinance, including failure to satisfy Industrial User Survey requirements.

(B) When the Public Works Superintendent determines this remedy is necessary and appropriate to fulfill the intentions of this ordinance, such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under GMC 12.14.350 of this ordinance why the proposed action should not be taken. Exercise of this option by the Public Works Superintendent shall not be a bar to, or a prerequisite for, taking any other action against the User.

ARTICLE IX - JUDICIAL ENFORCEMENT REMEDIES

12.14.410 Injunctive relief.

The Public Works Superintendent may seek injunctive relief when a User has violated, or continues to violate a provision of this ordinance, including a pretreatment standard or requirement, or a permit or order issued hereunder. In such cases, the Public Works Superintendent may petition the Whitman County Superior Court through the Town's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or

compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the User. The Public Works Superintendent 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.

12.14.420 Civil penalties.

(A) A User which has violated, or continues to violate a provision of this ordinance, including a pretreatment standard or requirement, or a permit or order issued hereunder shall be liable to the Town for a maximum civil penalty of \$10,000 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(B) The Town may recover reasonable attorneys' fees, court costs, and other expenses associated with any emergency response, enforcement activities, additional monitoring and oversight, and costs of any actual damages to the Town.

(C) In determining the amount of civil liability, the Court shall take into account all relevant circumstances. The Public Works Superintendent shall provide the Court a recommended civil penalty amount, and its basis. This basis shall address, as available, the extent of harm caused, the magnitude and duration of the violation, any economic benefit gained, the timing of Users actions and responses, corrective actions by the User, and the Users compliance history. The Public Works Superintendent will provide the range of penalty amounts its Enforcement Response Plan suggests if it addresses the situation and provides such guidance. The Public Works Superintendent will provide any other facts the Court requests, or the Public Works Superintendent believes important for the Court to have to render a just determination.

(D) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, any other action the Public Works Superintendent may take to resolve noncompliance by a User.

12.14.430 Remedies nonexclusive.

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

ARTICLE X - SUPPLEMENTAL ENFORCEMENT ACTION

12.14.440 Penalties for late reports.

The Public Works Superintendent may assess a Penalty of \$100.00 to any User for each day that a report required by this ordinance, a permit or order issued hereunder is late. Penalties accrue beginning the fifth day after the report is due. The Public Works Superintendent's actions to collect late reporting penalties shall not limit the Public Works Superintendent's authority to initiate any other enforcement action.

12.14.450 Performance bonds.

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

12.14.460 Liability insurance.

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

12.14.470 Payment of outstanding fees and penalties.

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

12.14.480 Water supply severance.

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

12.14.490 Public nuisances.

A violation of any provision of this ordinance or a permit or order issued hereunder, or any other pretreatment standard or requirement, is hereby declared a public nuisance and shall be corrected or abated as directed by the Public Works Superintendent. Any person(s) creating a public nuisance shall be subject to the provisions of Chapter 7.06 GMC governing such nuisances, including reimbursing the Town for any costs incurred in removing, abating, or remedying said nuisance.

ARTICLE XI - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

12.14.500 Upset.

(A) For the purposes of this section, “upset” means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(B) An upset shall constitute an affirmative defense to punitive actions in response to noncompliance with categorical pretreatment standards (GMC 12.14.060), but not local limits (GMC 12.14.080) when the requirements of paragraph (C), below, are met.

(C) A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and the user can identify the cause(s) of the upset.
- (2) The facility was at the time being operated in a prudent and workman-like manner and was in compliance with applicable operation and maintenance procedures.
- (3) Where the upset involved reduction, loss, or failure of its treatment facility (e.g. a power failure), the User controlled production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards until the facility was restored or an alternative method of treatment was provided.
- (4) The User submitted the following information to the Public Works Superintendent within twenty-four hours of becoming aware of the upset. When initially provided orally, the User must have provided a written report within five days:

- a) A description of the indirect discharge and cause of noncompliance.
- b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue. And
- c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(D) In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.

(E) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

12.14.510 Prohibited discharge standards.

A User will have an affirmative defense to an enforcement action brought against it for noncompliance with the prohibitions in GMC 12.14.050(A) and (B)(3-7) ordinance in certain cases. The User must be able to prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (1) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- (2) No local limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the Town was regularly in compliance with its state waste discharge permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

12.14.520 Bypass.

(A) For the purposes of this section,

- (1) "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.
- (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(B) A User may allow a bypass to occur if it does not cause pretreatment standards or requirements to be violated and is for essential maintenance to assure efficient operation.

- (C) Any other bypass must meet the following requirements:
- (1) Users knowing in advance of the need for a bypass must submit prior notice to the Public Works Superintendent, at least ten (10) days before the bypass wherever possible.
 - (2) Users must tell the Public Works Superintendent of any unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours of becoming aware of the bypass. Users must provide a written follow-up report within five (5) days. The Public Works Superintendent may waive the written report if the oral report was timely and complete. Unless waived, the written report must contain:
 - a) A description of the bypass (volume, pollutants, etc.)
 - b) What caused the bypass.
 - c) When, specifically, the bypass started and ended.
 - d) When the bypass is expected to stop (if ongoing).
 - e) What steps the User has taken or plans to take to reduce, eliminate, and prevent the bypass from reoccurring.
- (D) Bypass
- (1) Bypass is prohibited, and the Public Works Superintendent may take an enforcement action against a user for a bypass, unless
 - a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - c) The user submitted notices as required under paragraph (C) of this section.
 - (2) The Public Works Superintendent may approve an anticipated bypass, after considering its adverse effects, if the Public Works Superintendent determines that it will meet the three conditions listed in paragraph (D)(1) of this section.

ARTICLE XII - MISCELLANEOUS PROVISIONS

12.14.530 Pretreatment charges and fees.

The Town may adopt reasonable fees for reimbursement of costs of setting up and operating the Town's Pretreatment Program which may include:

- (1) Fees for wastewater discharge permit applications including the cost of processing such applications;
- (2) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
- (3) Fees for reviewing and responding to accidental discharge procedures and construction;

- (4) Fees for filing appeals;
- (5) Fees to recover administrative and legal costs associated with the enforcement activity taken by the Public Works Superintendent to address industrial user noncompliance; and
- (6) Other fees as the Town may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the Town.

12.14.540 Severability.

If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.