



The city is conducting this public meeting using a hybrid model. The public is welcome to attend tonight's meeting in-person at City Hall (Council Chambers), or virtually by using the meeting access link below.

Please click the link below to join the webinar:

<https://sumnerwa-gov.zoom.us/j/85238355948>

Or One tap mobile:

+12532050468,,85238355948# US

+12532158782,,85238355948# US (Tacoma)

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

+1 253 205 0468 US

Webinar ID: 852 3835 5948

CALL TO ORDER

Pledge of Allegiance

Invocation - Steve Starr (retired)

Roll Call: Bitetto, Bowman, Clerget, Cole, Elfers and Reinke

PROCLAMATION

Domestic Violence Awareness Month

PRESENTATION

1. Sumner Bonney Lake School District

The following items are distributed to Councilmembers in advance for study and review, and the recommended actions will be accepted in a single motion. Any item may be removed for further discussion if requested by a Councilmember.

CONSENT AGENDA

1. Approval of the meeting minutes from the September 16, 2024 regular council meeting and special study session, and September 18th, 2024 special study session.
2. Resolution No. 1701 Pretrial Reform Task Force Grant Acceptance

PUBLIC HEARING

REGULAR BUSINESS

1. **Unfinished Business**
2. **Public Comment (Limit 3 minutes)**

Members of the community who wish to give public comment are strongly encouraged to join the meeting via the ZOOM link or by telephone. If you are unable to join the meeting, please submit your public comment in writing via email to the City Clerk at Michellec@sumnerwa.gov no later than 4:00pm on the day of the meeting. Any written comments received will be provided to the City Council

and attached to the meeting minutes. Please contact the City Clerk at 253-299-5590 with any questions.

3. New Business

- a. Ordinance No. 2897- Amending the 2023/2024 Biennial Budget
- b. Ordinance 2898 - Amending SMC 12.60 City Parks, Trails, and Facilities
- c. Ordinance No. 2895 - Amending Sumner Municipal Code - Pretreatment Regulations

4. Reports

- a. Council
- b. City Administrator
- c. Mayor

5. Executive Session RCW 42.30.110(1)(i)(i) and RCW 42.30.140(4)(a)

6. Adjournment

This meeting is accessible to persons with disabilities. For individuals who may require special accommodations, please contact the City Clerk at (253) 299-5590, 24 hours in advance.

SUBJECT: Domestic Violence Awareness Month

CATEGORY: Proclamation

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. 2024 Domestic Violence Awareness

STAFF CONTACT: Andrea Marquez, City Attorney

SUMMARY BACKGROUND:

October is Domestic Violence Awareness Month. Tonight's proclamation will declare October as DV Awareness month and City Attorney Andrea Marquez will share information about the Legal Department's DV Advocate services.

COUNCIL COMMITTEE/STUDY SESSION:
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MEETING/STUDY SESSION DATE:

COMMITTEE RECOMMENDATION: Do-Pass

STAFF RECOMMENDATIONS/MOTION:

Declare October DV Awareness Month.



PROCLAMATION
Recognizing Domestic Violence Awareness Month

WHEREAS, domestic violence is a confrontation between family members or intimate partners involving physical harm, harassment, sexual assault, threats of physical harm, and stalking; and

WHEREAS, domestic violence is a crime that affects men, women, children, families, neighborhoods, and communities; and

WHEREAS, on average 1 in 3 women and 1 in 4 men in the US will experience domestic violence by an intimate partner during their lifetime; and

WHEREAS, according to the National Domestic Violence Hotline, the presence of a gun in domestic violence situations increases the risk of homicide for women by 500% and more than half of women killed by gun violence in the US are killed by family members or intimate partners; and

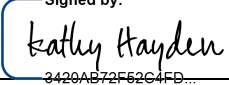
WHEREAS, children who grow up in violent homes are likely to also be abused or neglected and are more prone to domestic violence as adults; and

WHEREAS, the City helps support victims through its legal department, and helps develop safety plans as well as prosecute crimes related to domestic violence to hold perpetrators accountable for their actions; and

WHEREAS, the City of Sumner believes that our community, including every residence, should be a place of safety for all individuals.

NOW, THEREFORE, be it proclaimed that the City of Sumner once again declares October as Domestic Violence Awareness Month and encourages all citizens to actively stand against domestic violence in our community.

Dated this 7th day of October 2024.

Signed by:

3420AB72F62C4FD...
Kathy Hayden, Mayor



SUBJECT: Sumner Bonney Lake School District

CATEGORY: Presentation

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Presentation
-

STAFF CONTACT: Jason Wilson, City Administrator

SUMMARY BACKGROUND:

Sumner Bonney Lake School District Superintendent Dr. Laurie Dent will be providing the council with an update on the school district's upcoming bond measure.

COUNCIL COMMITTEE/STUDY SESSION:

MEETING/STUDY SESSION DATE:

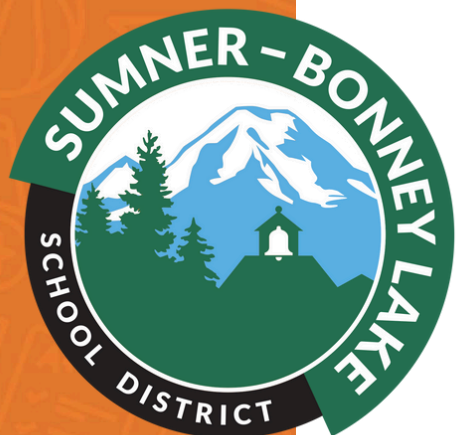
COMMITTEE RECOMMENDATION: Do-Pass

STAFF RECOMMENDATIONS/MOTION:

N/A

Future Ready for ALL Students

Proposition No. 1 - Bonds for K-12 Expanded Student Capacity, School Improvements and Safety Upgrades



Sumner-Bonney Lake School District
sumnersd.org/vote

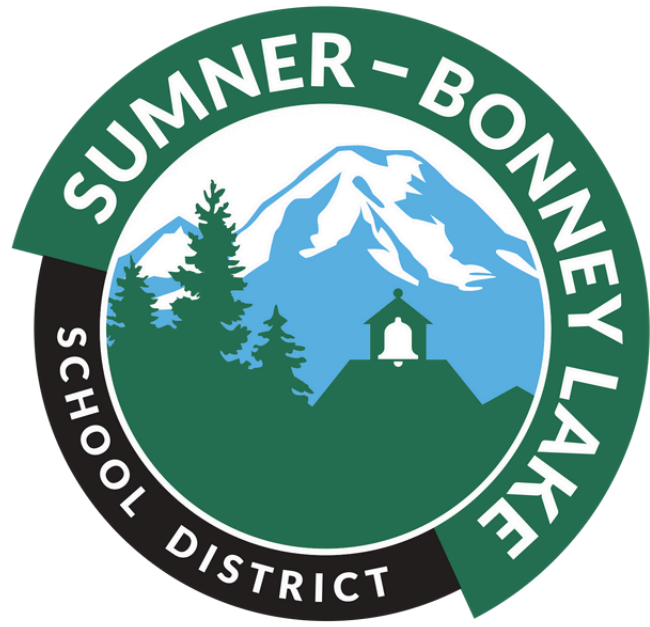




KNOW.

VALUE.

SUPPORT.



November 5, 2024 General Election

Proposition No. 1
**Bonds for K-12 Expanded Student
Capacity, School Improvements and
Safety Upgrades**

Purpose: Educate & Inform

The district, as part of its mission to educate and instill civic responsibility, will assure that the community is appropriately informed about district and education related ballot measures through objective and fair presentations of the facts related to those measures.

Board Policy 4400

Community Advisory Committee (Capital Facility Advisory Committee)

- 31-person committee expertise in student learning, finance, building design/construction, and included principals, teachers and parents
- Studied past enrollment growth, projected enrollment, age, and condition of buildings
- Helped determine the facility priorities and overall recommendation

**Build for
the future**

**Create
room for
growth**

**Invest in
the
community**



Why a School Improvements Bond NOW?

18% Increase in K-12 Student Enrollment Over Last Decade (2014-2024)

21%

Elementary
+790 students or
30 classrooms
FULL of students

15%

Middle
+291 students or
10 classrooms
FULL of students

15%

High School
+445 student or
15 classrooms
FULL of students

URGENT NEED: Over capacity

9 out of 14
buildings are over
100% capacity

4 buildings are
over 95% capacity

<i>School</i>	Square Footage SCAP Sept. 2020	Design Capacity	Net Capacity	Enrollment Oct. 2023	Utilization Percent
<i>Elementary</i>					
Bonney Lake	47,243	438	437	443	101.37%
Crestwood	48,401	440	391	385	98.47%
Daffodil Valley	48,035	500	481	426	88.57%
Donald Eismann	50,000	550	481	712	148.02%
Emerald Hills	56,676	550	506	548	108.30%
Liberty Ridge	48,401	500	435	448	102.99%
Maple Lawn	51,291	446	454	583	128.41%
Tehaleh Heights	56,676	500	460	447	97.17%
Victor Falls	51,158	550	459	514	111.98%
<i>Middle School</i>					
Lakeridge Middle	96,608	650	623	739	118.62%
Mountain View Middle	90,351	820	778	872	112.08%
Sumner Middle	107,566	750	722	701	97.09%
<i>High School</i>					
Bonney Lake High School	202,581	1400	1260	1628	129.21%
Sumner High School	186,888	2240	1830	1784	97.49%

URGENT NEED: Over capacity

48%

DEE +231
students over
9 FULL
classrooms

18%

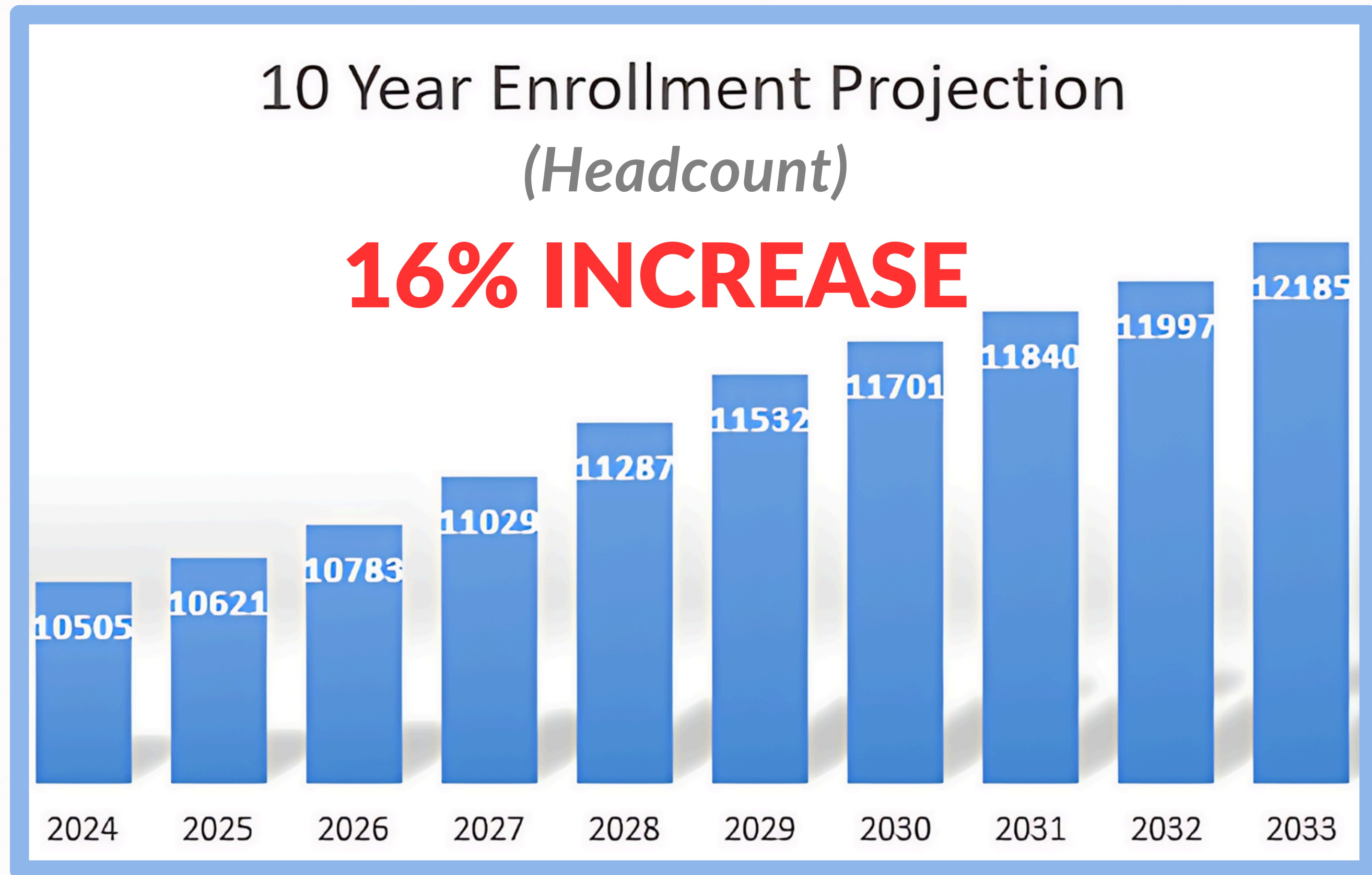
LMS +116
students over
4 FULL
classrooms

29%

BLHS +368
students over
12 FULL
classrooms

URGENT NEED: Projected enrollment

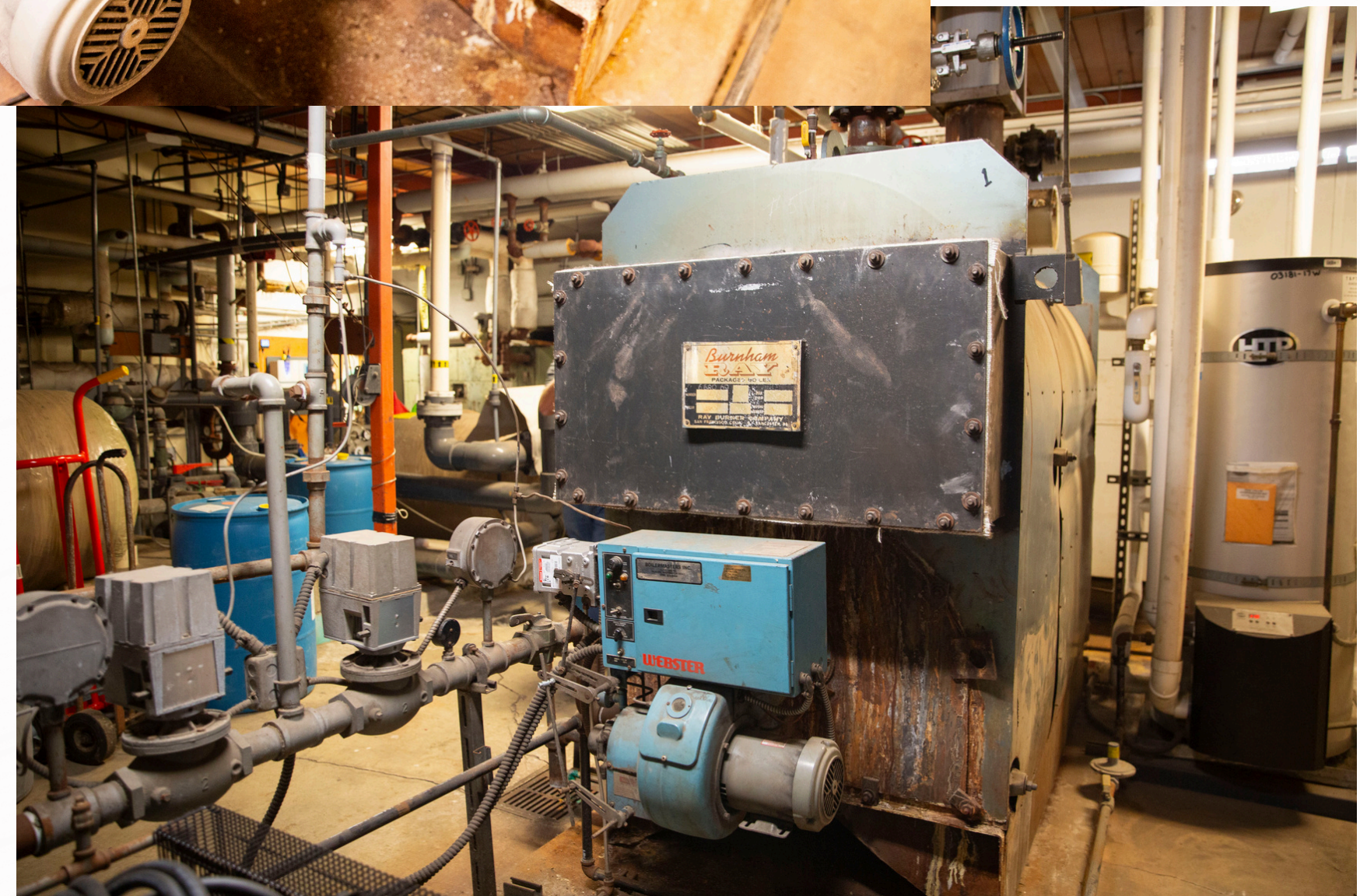
Expected to
increase by 16%
from 2024-2033



Take care of the basics

Buildings are aging and starting to fail

- Repair roofs
- Mechanical systems to maintain clean air/clean water
- Improve plumbing
- Improvements now save costly expenses in the future



Health, safety & security

- ADA Compliant
- Safer all-turf field replacements
- Traffic circulation
- Increased controlled class safety access
- Seismic Upgrades



Post Graduation Ready

Increase opportunities & expand options for ALL students



Save money in the long run

The longer we wait, costs will continue to go up

2020 Bond measure now
147% more expensive



\$175M in 2020 now \$433M 2024



What projects are included in the bond?

*Daffodil Valley
Elementary*

*Crestwood
Elementary*

Sumner High School

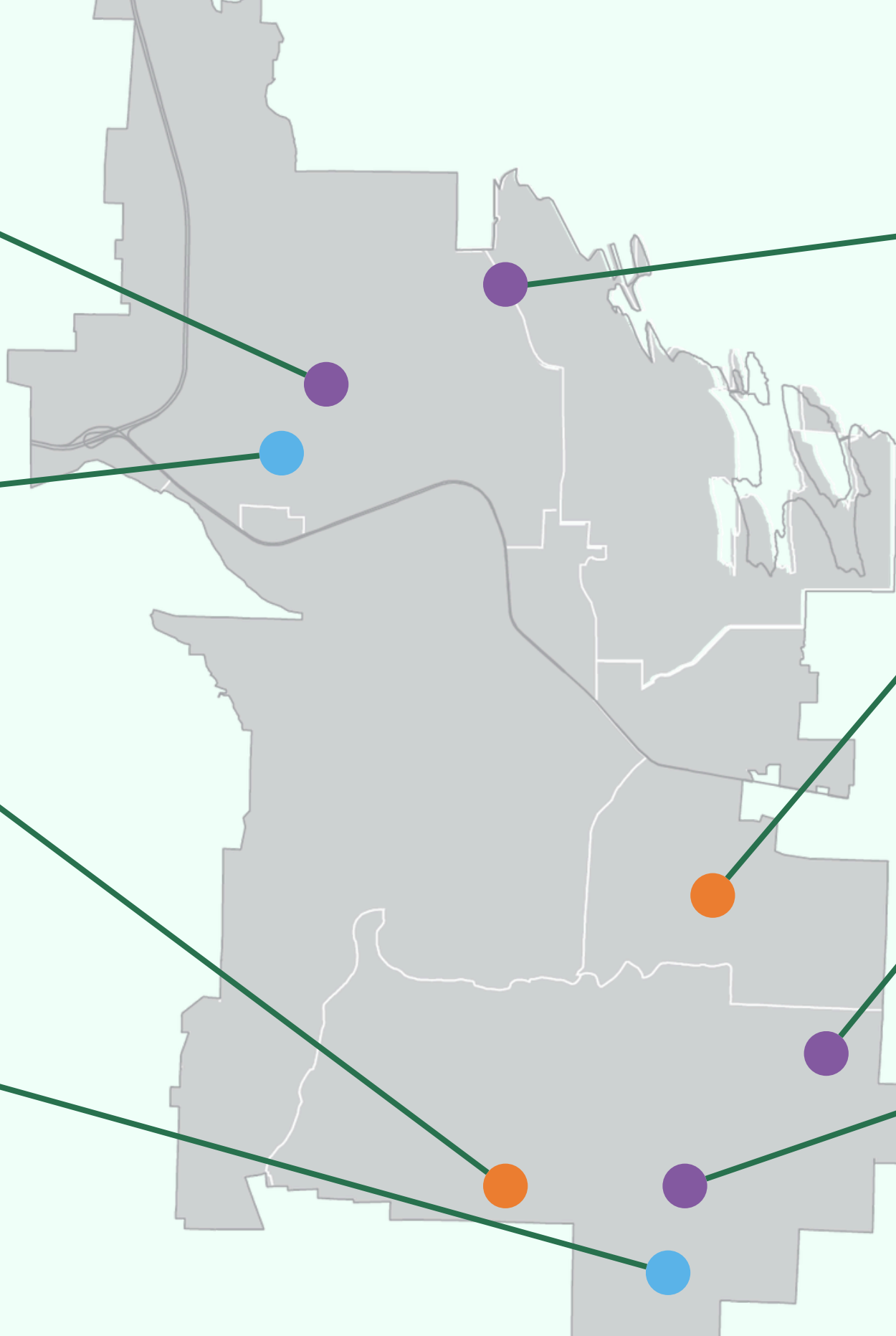
*Bonney Lake
High School*

*Tehaleh Heights
Elementary*

*Liberty Ridge
Elementary*

*New Middle School in
Tehaleh*

*Donald Eismann
Elementary*

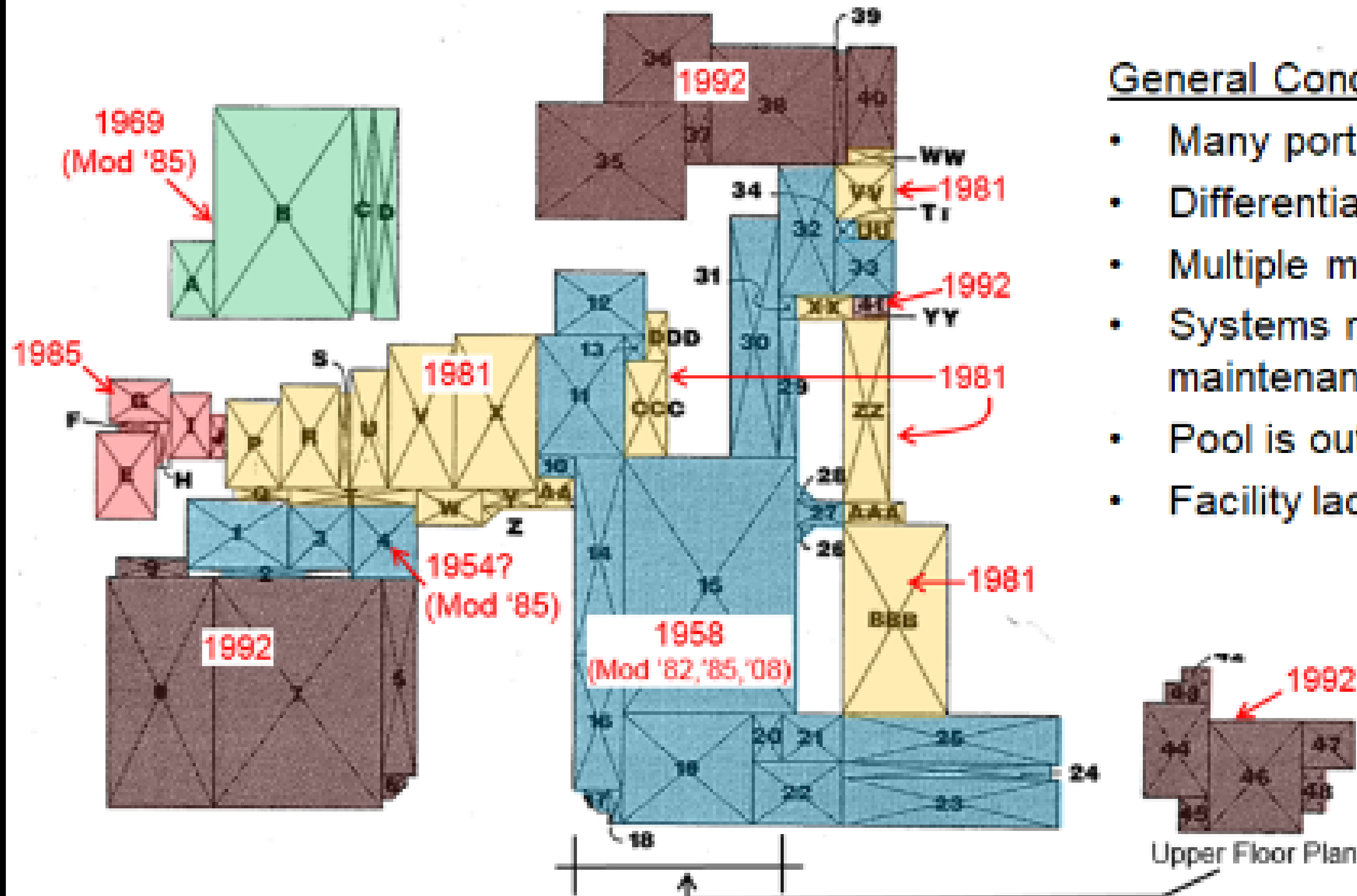


Districtwide: Reduced student overcrowding at ALL schools

Sumner High School



Age/Condition



General Condition Comments

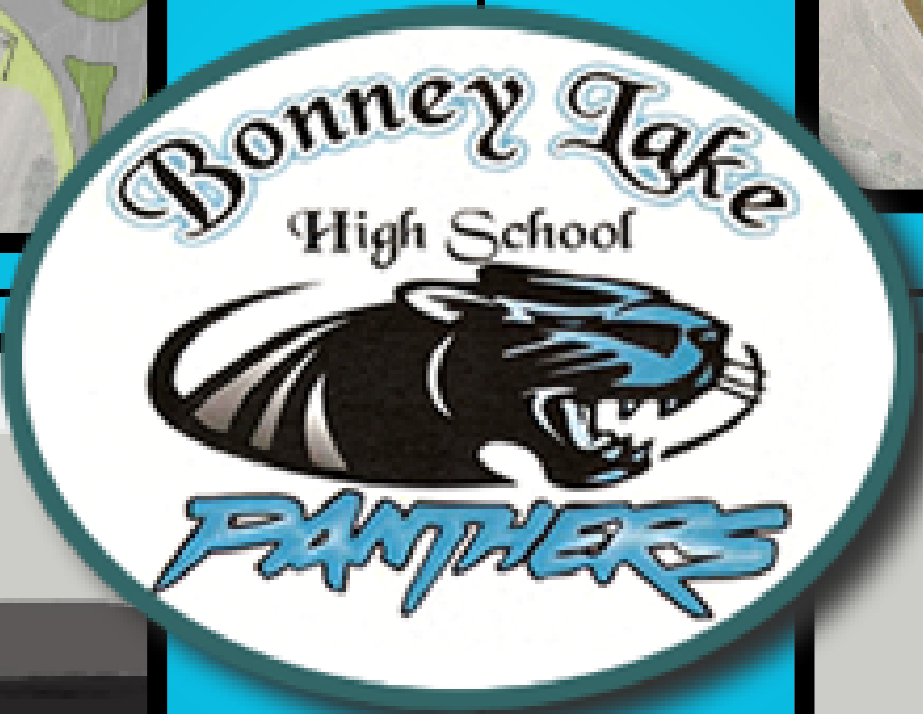
- Many portions of facility are quite old
- Differential settlement of floor slabs
- Multiple misc. remodels
- Systems require increased maintenance
- Pool is outdated
- Facility lacks visual appeal

KEY:

YYYY = Date Built
(Mod 'YY) = Date Modified

DVE Turf/Lighted Field

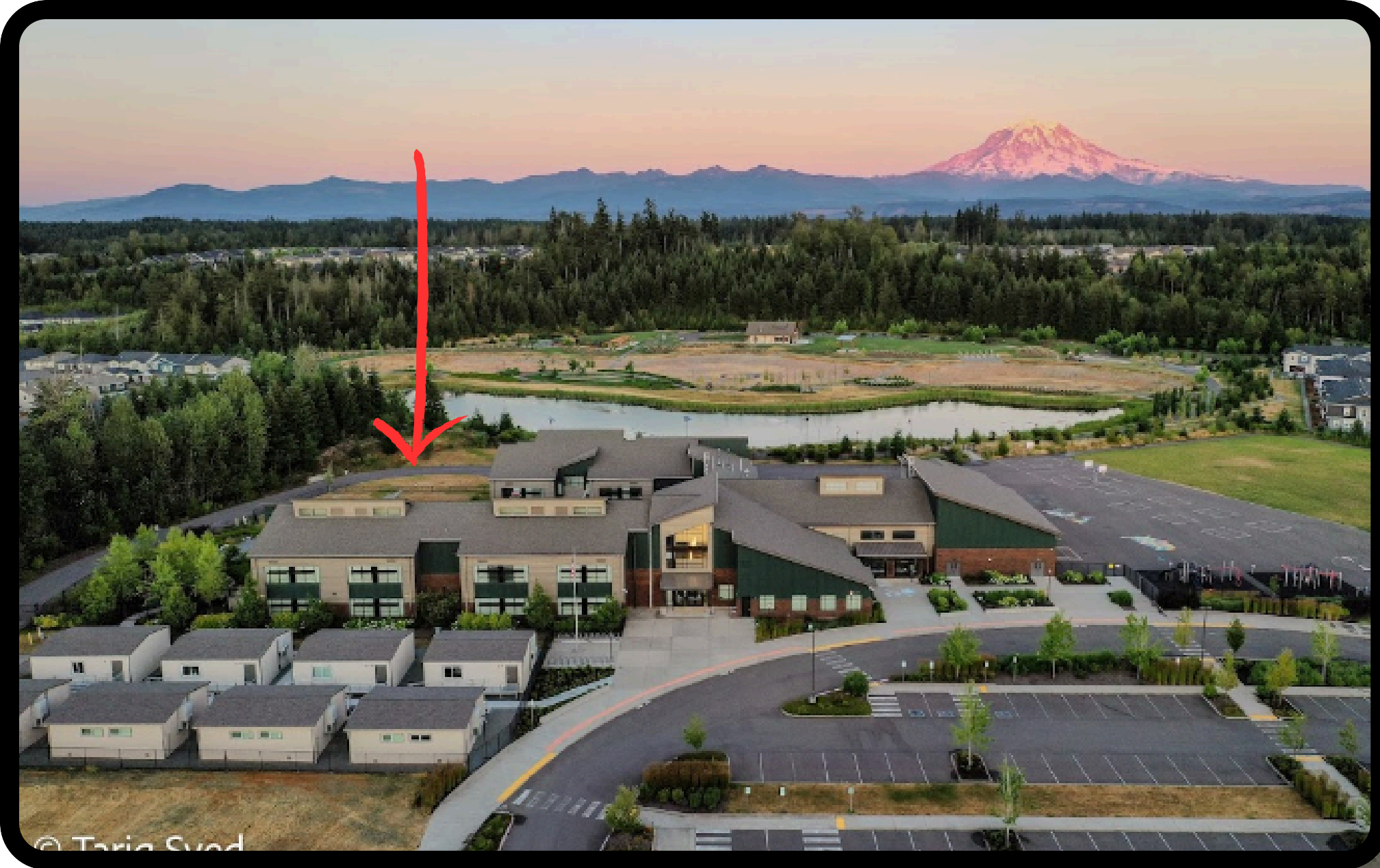




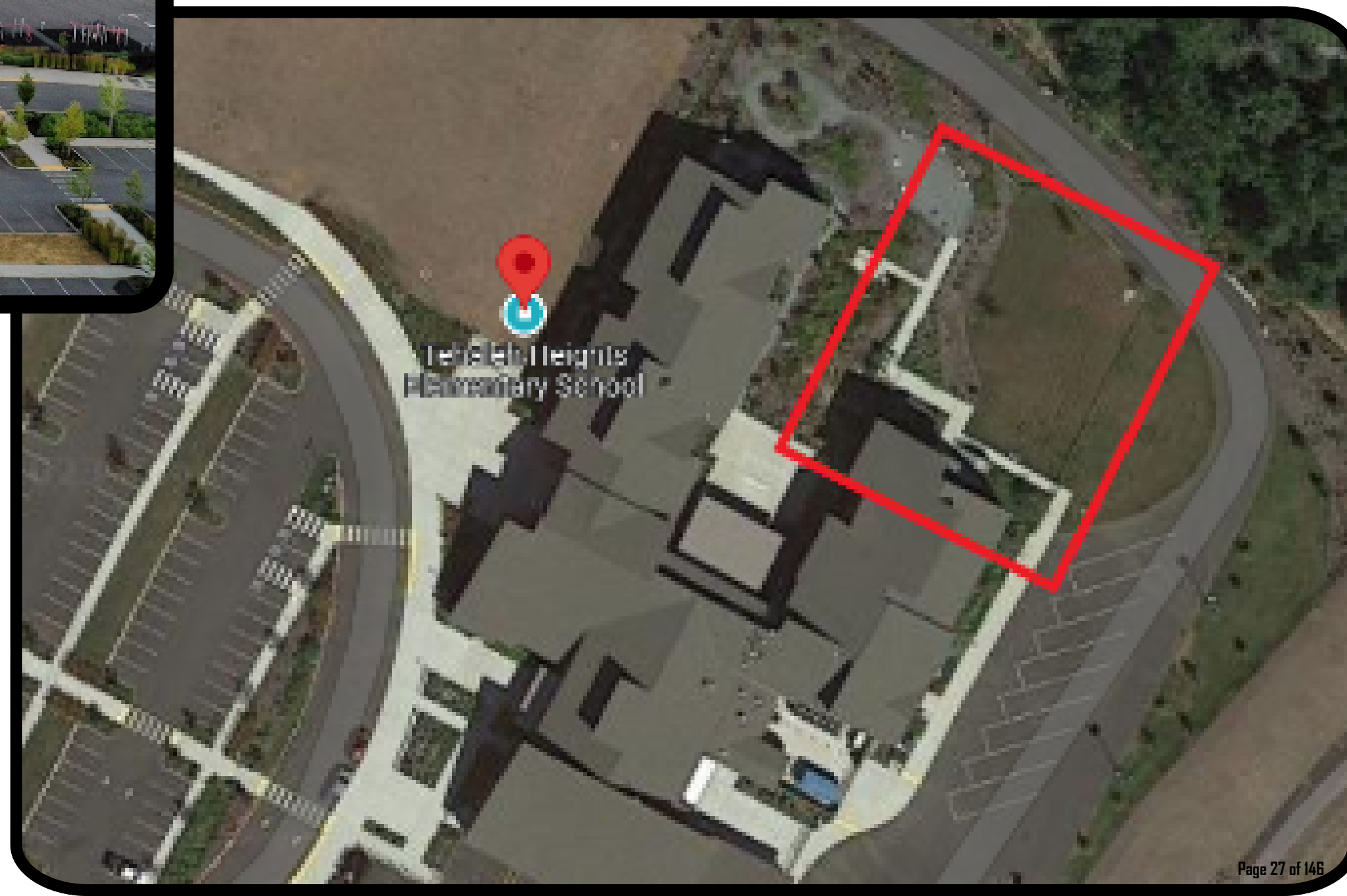
New Middle School

Where?





Tehaleh Heights Expansion



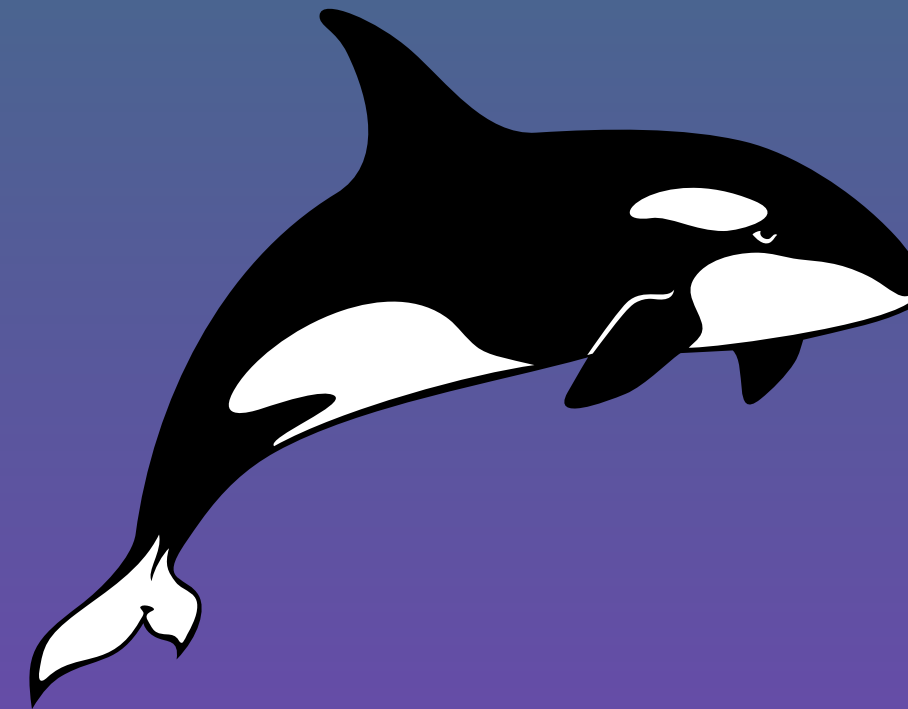
DEE Field, Queuing & Parking

Donald Eismann
Elementary

Sprouts Holler Pa

The Edge Skatepark

LRE Improvements



CWE Improvements

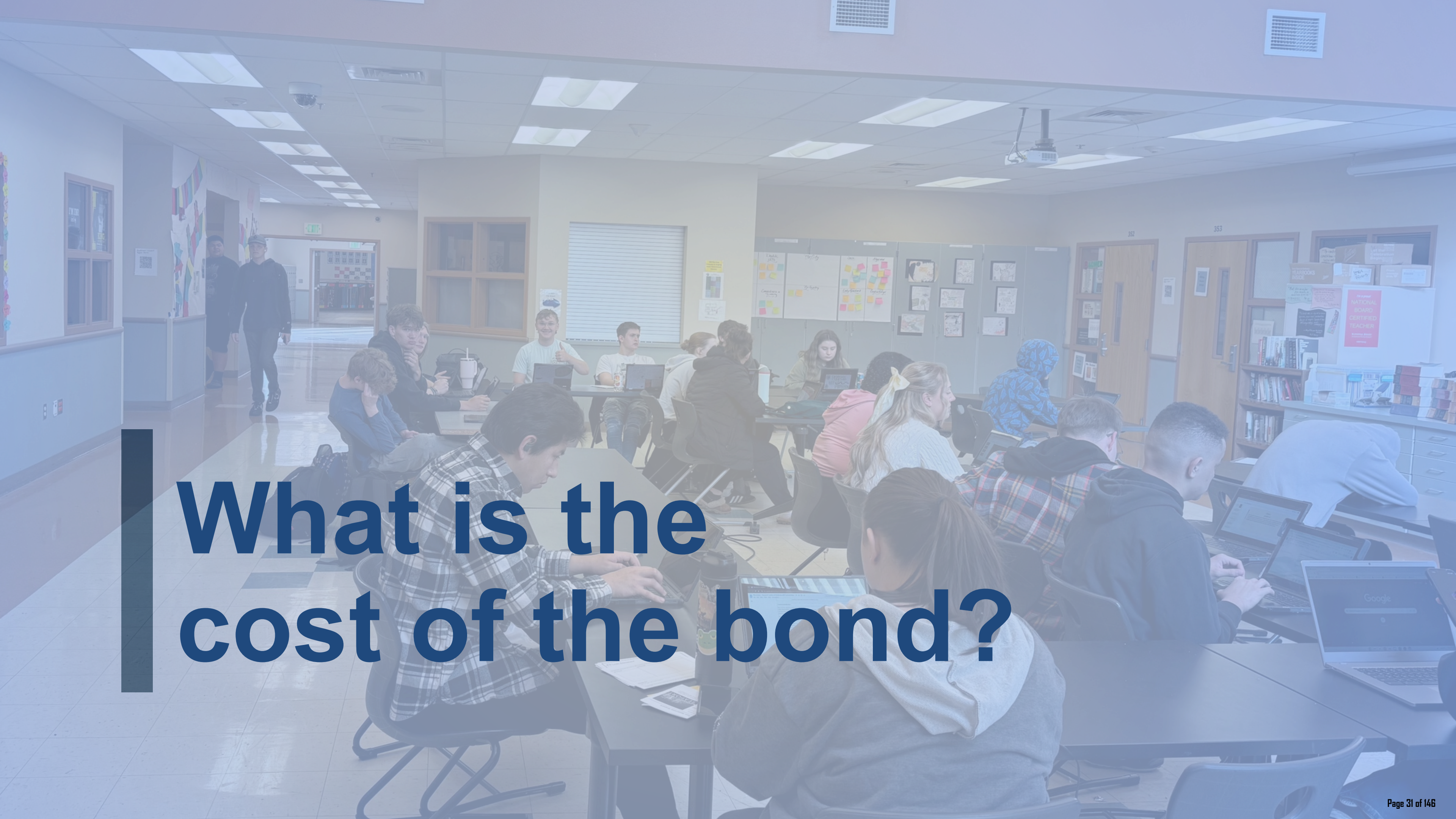


PROPOSED BOND PROJECTS DISTRICTWIDE



CLEAN ENERGY

- District-wide LED conversion
- Energy efficiency measures to achieve Clean Buildings Performance Standards compliance



**What is the
cost of the bond?**

What's the cost?

This bond for Expanded Student Capacity, School Improvements, and Safety Upgrades would be \$732 million paid back over a maximum of 21 years.

Average Tax Rate
Last 5 Years

4.64/1000*

*Property Tax Rate
2020-2024

Average Tax Rate
Next 5 Years

4.63/1000

The average residential property in Sumner-Bonney Lake in 2025 is expected to be \$547k.



What's the cost?

The average SBL residential property owner would pay \$70 more annually over the previous year for every \$100,000 of your assessed property value in 2025

Example of increase:

\$500K home =
\$29/month or \$350/year

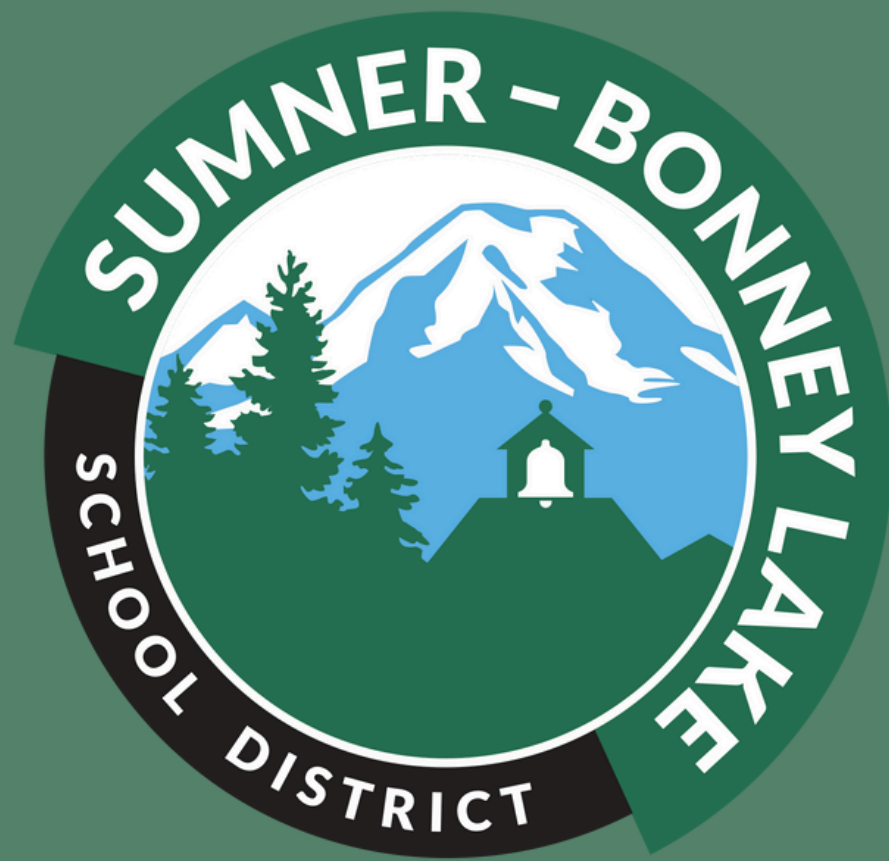
\$700K home =
\$41/month or \$490/year



How are bonds approved?

**Bonds Require
60%**

+ and 40% of voters from the prior general election for validation



**November 5, 2024
General Election**

DON'T FORGET TO VOTE!

**Proposition No. 1 - Bonds for
K-12 Expanded Student
Capacity, School Improvements
and Safety Upgrades**

SUMNER-BONNEY LAKE

**READY
FOR THE FUTURE**



PAID FOR BY SUMNER-BONNEY LAKE SCHOOL DISTRICT

For additional
information click on
the QR code or visit
our website @
sumnersd.org/vote

A young woman with long blonde hair, wearing a purple graduation cap and gown, stands in the center of the frame. She is smiling and holding a diploma from Sumner High School. The diploma is open, showing a school building on the left page and text on the right page. The text on the diploma includes "Sumner High School", "Diploma", and "2024". In the background, a large screen displays two photos of the graduate: one as a young child and one as a graduate. To the left, an American flag is visible. To the right, a man in a graduation gown is seated. A teddy bear wearing a graduation cap and a sign that says "UTTERLY AMAZING GRAD" is also visible. The word "QUESTIONS?" is overlaid in large, white, bold letters across the center of the image.

QUESTIONS?

SUBJECT: Approval of the meeting minutes from the September 16, 2024 regular council meeting and special study session, and September 18th, 2024 special study session.

CATEGORY: Consent

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Regular Council Meeting Minutes - September 16, 2024
2. Special Study Session Minutes - September 16, 2024
3. Special Study Session Minutes - September 18, 2024

STAFF CONTACT: Michelle Converse, City Clerk

SUMMARY BACKGROUND:

Meeting minutes from the previous meetings.

COUNCIL COMMITTEE/STUDY SESSION:

MEETING/STUDY SESSION DATE:

COMMITTEE RECOMMENDATION: Do-Pass

STAFF RECOMMENDATIONS/MOTION:

Approve as presented.



Staff present: Wilson, Marquez, Moericke, Palmer, Steffens, Beagle, Kosa, Windish, Raymond, Moericke, and Converse

CALL TO ORDER

Mayor Hayden called the meeting to order at 6pm.

Pledge of Allegiance

Invocation Pastor Luke Wilbanks, Gospel Life

Roll Call: Bitetto, Bowman, Clerget, Cole, Elfers and Reinke

CONSENT AGENDA

MOVED BY COLE, SECONDED BY BOWMAN TO APPROVE THE CONSENT AGENDA
CONSISTING OF:

1. White River Restoration Phase 1 (CIP 14-10) - Change Order
2. Main & Wood Intersection Improvements - Consultant Agreement Supplement
3. Resolution No. 1699 - EV Charging Commerce Grant Acceptance
4. Professional Service Contract Amendment #2 – Sound Inspections
5. Approval of the minutes from the September 3rd, 2024 regular council meeting and special study session, and the 9th of September 2024 study session.
6. Approval of checks and electronic payments in the amount of \$1,199,183.18.

PASSED BY VOICE VOTE.

PUBLIC HEARING

There was none tonight.

REGULAR BUSINESS

1. Unfinished Business

a. Ordinance No. 2894 – Amending Sumner Municipal Code 5.08 – Utility Taxes

MOVED BY ELFERS SECONDED BY REINKE TO APPROVE ORDINANCE NO. 2894 –
AMENDING SUMNER MUNICIPAL CODE 5.08 – UTILITY TAXES

Administrative Services Director Jeff Steffens spoke to the topic.

Discussion ensued.

PASSED 5-1.

YAYS – COLE, REINKE, BITETTO, BOWMAN, AND CLERGET.

NO – ELFERS

2. Public Comment

Tina Burnett, 228 Sumner Avenue spoke about Ryan House and the possibility of a new Council Chambers.

3. New Business

4. Reports

a. Council

Councilmember Bitetto thanked the police department for all the work they do, putting their lives on the line for our community. The weekend's events lead to using lethal force which hasn't been used in many many years, we are very lucky.

Councilmembers Bowman, Reinke and Deputy Mayor Cole had no comment

Councilmember Elfers echoed Councilmember Bitetto comments and offered his condolences to the family.

Clerget announced the Public Safety Committee meeting is cancelled this week

b. City Administrator

City Administrator Jason Wilson reported on the following -

Upcoming Policy Issues:

- September 23rd – Study Session
 - Budget Presentations for the following departments:
 - Cemetery
 - Fleet
 - Metro Animal Services
 - Community Development
 - Senior Center
 - Community Services
- September 30th – Special Study Session
 - Budget Presentations for the following departments:
 - Information Technology
 - Parks
 - Parks Capital
 - Facilities
 - Facilities Capital
- October 7th – Regular Council Meeting
 - Summer Bonney Lake School District Presentation
 - Proclamation for Domestic Violence Awareness Month
 - Ordinance amending the park rules relating to the Rainier View Covered Court hours
 - Ordinance adopting the 3rd Quarter budget amendments

Commission Updates:

- **Planning Commission:** The Planning Commission will be meeting this Thursday at 6pm to make final recommendations regarding the 2024 Comprehensive Plan Update including related plans and development regulations.

Miscellaneous:

- **Council Vacancy:** Applications are available on our website, and will be accepted until October 8th at 5pm.

c. Mayor

Mayor Hayden wished Councilmember Bowman and City Clerk Michelle Converse “Happy Birthday”. She ended her comments by reminding everyone there was a special study session following the regularly scheduled meeting.

5. Executive Session

There was none tonight.

6. Adjournment

With no additional business before the Council, Mayor Hayden adjourned the regular meeting at 6:22pm. Councilmembers concurred.

ATTEST:

Kathy Hayden, Mayor

Michelle Converse
City Clerk

To the city council members; When are you going to get tired of being the flea at the end of the tail of the dog that is bureaucracy of the City of Sumner? You are more important to the process than you are currently displaying with your rubber stamping of what is brought to you.

1) Why do you allow the staff to presume the account set up for your discretion should be used to do road work on Washington St for the city to “balance” their budget? Didn’t the citizens just tell you they want one-time expenditures from your golf course sale for the roads? You should take the lead on things you identify you want done and apply those funds at that time only, after your initiative to start that decision.....not after staff fills in their blanks with your controlled funds.

2) Why does the Utility Complex on 142nd have an expensive architectural design versus the buildings nearby owned by billion-dollar companies that are straight forward, functional, tilt up buildings; not trying to waste money for a design award? No, that foolishness is left for taxpayers to pay for when it is a “Utility Dept”! Instead you could have built a normal building that would have saved millions and had the main building be 2 stories to house the ever growing number of employees that staff says now do not have space to work, despite staff also representing there are now 10+ fewer employees than in 2008. Reality check here, there are MORE employees now because in 2008 we had a 911 call center and a fire dept. With those gone, the question is how many more employees now work out of city hall vs 2008 & is the reason for the overcrowding? Understand we have grown since 2008, just be honest and upfront with what has happened vs slanting data to give an erroneous representation of reality.

3) The whole city has been wondering why you needed to replace Knoblauch Heritage Park, with the unique “Hops Alley” and the likewise new park. The reality is that the city had come to the conclusion that you wanted new offices + on the second floor of your “Event Center” and a huge new City Council Chambers” for the council on the third, with a “green” deck to look out over the minions in the park. Why didn’t you actually ask the citizens if this is how they wanted to have their tax dollars spent? In a city that is barely meeting budget and is forecasted to be in the red for coming years, how can this exorbitant cost be justified for yourself. The over the top design of your new building under the auspices of a new park is why the citizens do not trust you and is actually just new

expensive digs for city employees to enjoy....."Let them eat cake" thought process comes to mind. This is directly opposite financially to what you should be doing based on us being broke & these excesses that staff is requesting & council has been approving/allowing them to do.

4) It is far past the time when the city stops not being above board and starts disclosing to the citizens what you are actually doing. Think of all the efforts you did when just wanting to know the color of the courts at Rainier View Park. You can do it when you want to, you just seem to not want to do it most of the time and instead give citizens 2 weeks to speak up on ideas you have finalized/posted and spent money on. What we hear is "It's too late" to change, you didn't speak up in time or further disclosure is not required by the city!

Randall Adams 15013 63rd St Ct E, Sumner, WA 98390

From: Nhan, Christine

To: Michelle Converse

Subject: Sumner City Council Public Comment 9/16

Date: Monday, September 16, 2024 2:15:40 PM

****EXTERNAL EMAIL****

Hello Mayor and Members of the Council,

My name is Christine Nhan and I am the Government Affairs Manager serving Pierce County for Puget Sound Energy (PSE). We are the region's oldest electric and gas utility delivering safe and reliable energy to our customers for over 150 years. Over the years, PSE has made several investments including a recent partnership with the Old Cannery to bring an electric vehicle charging station to the City of Sumner. The City is an important partner and we value the partnership we have developed. Tonight, I am providing comment on item 1a on the agenda. We appreciate the City's willingness to communicate with us and the thoughtful decision making throughout this process. At PSE, we want to be transparent with our customers about bill impacts. We understand this change may not impact every customer. However, we want to ensure that if any businesses are to experience changes, that we collaborate with the City on messaging these adjustments.

Again, thank you for the partnership and opportunity to provide comment.

Christine Nhan

Local Government Affairs & Public Policy Manager

Puget Sound Energy

(253) 229-0953



Staff present: Wilson, Marquez, Kosa, Beagle, Moericke, Steffens, Raymond

Councilmembers present: Bitetto, Bowman, Clerget, Cole, Elfers and Reinke

MAYOR HAYDEN CALLED THE MEETING TO ORDER AT 6:25PM.

SPECIAL STUDY SESSION BUSINESS

1. 2025 / 2026 Budget Review

ADJOURNMENT

With no additional business, Deputy Mayor Cole adjourned the meeting at 8:05pm.

Attest:

Kathy Hayden, Mayor

Michelle Converse, City Clerk



Staff present: Wilson, Marquez, Kosa, Johnstone, O’Haver-Ayala, Steffens, Raymond

Councilmembers present: Bitetto, Bowman, Clerget, Cole, Elfers and Reinke

MAYOR HAYDEN CALLED THE MEETING TO ORDER AT 12:00PM.

SPECIAL STUDY SESSION BUSINESS

1. 2025/2026 Budget Review – Public Works

ADJOURNMENT

With no additional business, Mayor Hayden adjourned the meeting at 4:42pm.

Attest:

Kathy Hayden, Mayor

Michelle Converse, City Clerk

SUBJECT: Resolution No. 1701 Pretrial Reform Task Force Grant Acceptance

CATEGORY: Resolution

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Resolution 1701 Electronic Home Monitoring AOC Grant Acceptance

STAFF CONTACT: Jeff Steffens, Administrative Services Director

SUMMARY BACKGROUND:

The Sumner Municipal Court applied for and was awarded a grant with the Administrative Office of the Courts (AOC). This grant provides the City \$14,750 to be used to pay for electronic home monitoring (EHM) services. These services are seen as an alternative to costly jail time and allow individuals to maintain relationships with their families and communities. In return, the City will be required to participate in the Pretrial Reform Task Force Pilot Project to track the effectiveness of these EHM services in reducing recidivism.

COUNCIL COMMITTEE/STUDY SESSION:
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MEETING/STUDY SESSION DATE:

COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATIONS/MOTION:

A motion to adopt Resolution No.: 1701; accepting a grant from the Washington State Administrative Office of the Courts related to Electronic Home Monitoring and participation in a Pretrial Reform Task Force.

RESOLUTION NO. 1701

CITY OF SUMNER, WASHINGTON

A RESOLUTION OF THE CITY OF SUMNER, WASHINGTON, ACCEPTING A GRANT FROM THE WASHINGTON STATE ADMINISTRATIVE OFFICE OF THE COURTS AND AUTHORIZING THE EXECUTION OF THE INTERAGENCY AGREEMENT BETWEEN THE CITY AND THE WASHINGTON STATE ADMINISTRATIVE OFFICE OF THE COURTS.

WHEREAS, Electronic Home Monitoring is often used by courts as an alternative to jail; and

WHEREAS, to help accomplish and fund the Sumner Municipal Court's alternative sentencing options, the City of Sumner applied for the Pretrial Reform Task Force Grant; and

WHEREAS, the Court was awarded fourteen thousand seven hundred and fifty dollars (\$14,750); and

WHEREAS, City Council acceptance of the grant and authorization for the Mayor to execute a grant agreement is required by law; and

WHEREAS, it is in the City's interests to accept the grant funds and enter into any necessary grant agreements regarding the same.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON:

Section 1. That the City Council of the City of Sumner, Washington, does hereby accept the Pretrial Task Force Reform grant and, pursuant to RCW 39.34, authorizes the Mayor to execute any necessary interagency funding agreements, and any and all documents necessary to carry out and effectuate the grant acceptance and program requirements.

Section 2. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this resolution, including but not limited to the correction of clerical errors; or references to other local, state, or federal laws, codes, rules, or regulations.

Section 3. Effective Date. This resolution shall take effect and be in full force immediately upon passage by the City Council.

ADOPTED AND APPROVED this October 7, 2024.

Kathy Hayden, Mayor

Attest:

Approved as to form:

Michelle Converse, City Clerk

Andrea J. Marquez, City Attorney

INTERAGENCY AGREEMENT IAA25555
BETWEEN
WASHINGTON STATE ADMINISTRATIVE OFFICE OF THE COURTS
AND
SUMNER MUNICIPAL COURT

THIS AGREEMENT (Agreement) is entered into by and between the Administrative Office of the Courts (AOC) and Sumner Municipal Court (Court), (collectively as the **Parties**).

The Parties hereby enter into this Agreement whereby Court will launch a Pretrial Reform Task Force pilot project and agrees to the following terms and conditions.

I. PURPOSE

The purpose of this Agreement is to provide reimbursements to assist the Court with costs related to the Pretrial Reform Task Force pilot project. This funding must be used to help create pretrial release and pretrial support options for the court.

II. REIMBURSEMENT

A. The awarded amount is a maximum of fourteen thousand seven hundred fifty dollars (\$14,750).

B. AOC shall provide reimbursement to the Court for approved and completed reimbursements by warrant or account transfer within 30 days of receipt of a properly completed A-19 invoice and the completed data report as required within the Scope of Work.

III. SCOPE OF WORK

The Court shall establish and operate the Pretrial Reform Task Force pilot project by:

- A. Participate in virtual monthly technical assistance meetings through June 2025 with AOC and National Technical providers to support best practice implementation strategies for Electronic Home Monitoring Systems (EHM/GPS), SCRAM and alcohol and drug monitoring.
- B. In-person representation from Court on Thursday, September 26, 2024 at the Pretrial Summit.
- C. Court will track and provide monthly data outcomes as agreed upon with the training and technical assistance team. Reports are due no later than the 5th of each month, and should accompany the A-19 submitted to the AOC Staff Program Manager via email.

IV. PERIOD OF PERFORMANCE

Subject to its other provisions, the period of performance under this Agreement shall be in affect from July 1, 2024 and continue through June 30, 2025 unless terminated sooner as provided herein or extended in writing by mutual agreement between the parties.

V. COMPENSATION AND PAYMENT

- A. AOC will reimburse the Court a total compensation not to exceed fourteen thousand seven hundred fifty dollars (\$14,750.00) for payments made by the Court during the period from July 1, 2024 through June 30, 2025 related to the development of the Pretrial Reform Task Force Pilot Project.
- B. The Court shall submit invoices to AOC for expenditures no more frequently than monthly, and no less frequently than quarterly. Invoices shall be submitted on state form A-19 form.
- C. Before payment can be processed, properly-completed A-19 invoices must be submitted to payables@courts.wa.gov
- D. If this agreement is terminated, the Court shall only receive payment for performance rendered or costs incurred in accordance with the terms of this agreement prior to the effective date of termination.
- E. The Court shall maintain sufficient backup documentation of expenses under this agreement.
- F. Payments made by AOC within 30 days of receipt of a properly-completed A-19 invoice shall be deemed timely.
- G. This amount includes expenses necessary or incidental to performing the items under the Statement of Work, including, but not limited to, travel, lodging and per diem related expenses. Court will submit an invoice after the completion and acceptance of each deliverable listed in the Scope of Work.

Funds cannot be used for:

- Replacing or supplementing the salary of current employees of the Court (employees must be taking on additional work or be a new employee to be eligible for funding),
- Program incentives that constitute a gift or reward,
- Items and activities outside of the cost categories listed in the Court's contract.

VI. BILLING PROCEDURES

Court will submit properly prepared Form A-19s via email to AOC Financial Services at payables@courts.wa.gov. Invoices shall be submitted no less frequently than quarterly during the term of the contract. Incorrect or incomplete invoices shall be returned by AOC to Court for correction and reissuance, and may result in delays in funding. All Invoices shall provide and itemize, at a minimum, the following:

- A. Contract Number; IAA25555
- B. Court name, address, phone number;
- C. Court Federal Tax Identification Number;
- D. Description of Services provided;
- E. Date(s) Services provided;
- F. Total Invoice Price.

Payment will be considered timely if made by the AOC within thirty (30) calendar days of receipt of a properly prepared invoice. Payment shall be sent to the address designated by the Court.

The AOC may, in its sole discretion, terminate the contract or withhold payments claimed by the Court for services rendered if the Court fails to satisfactorily comply with any term or condition of this contract.

No payments in advance or in anticipation of services or supplies to be provided under this contract shall be made by the AOC.

VII. REVENUE SHARING

- A. AOC in its sole discretion, may initiate the revenue sharing. AOC will notify the Court no later than January 31, 2025 that AOC intends to reallocate funding among courts. If AOC determines the Court may not spend all monies available under the Agreement, then AOC may reduce the Agreement amount. If AOC determines the Court may spend more money than is available under the Agreement for its scope, then the AOC may increase the Agreement amount.
- B. If the AOC initiates the revenue sharing process, then the Court must submit a final revenue sharing A19 to payables@courts.wa.gov between February 13, 2025 and February 28, 2025.

VIII. APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of Washington State (Legislature) for the performance of this Agreement. If sufficient appropriations and authorization are not made or removed by the Legislature, this Agreement will terminate immediately upon

written notice being given by the AOC to the Court. The decision as to whether appropriations are sufficient to perform the duties under this Agreement is within the sole discretion of AOC.

IX. AGREEMENT ALTERATIONS AND AMENDMENTS

This Agreement may be amended by agreement of the parties. Such amendments are not binding unless they are in writing and signed by personnel authorized to bind each of the parties.

X. INDEPENDENT CAPACITY

The employees or agents of each party who are engaged in the performance of this Agreement shall continue to be employees or agents of that party and shall not be considered for any purpose to be employees or agents of the other party.

XI. RECORDS, DOCUMENTS, AND REPORTS

The Court shall maintain books, records, documents and other evidence of accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this agreement. These records shall be subject at all reasonable times to inspection, review, or audit by personnel duly authorized by the AOC and the Office of the State Auditor, or so authorized by law, rule, regulation, or agreement. The Court will retain all books, records, documents, and other material relevant to this agreement for six years after settlement, and make them available for inspection by persons authorized by this provision.

XII. RIGHT OF INSPECTION

The Court shall provide right of access to its facilities to the AOC, or any of its officers, or to any other authorized agent or official of the state of Washington at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Agreement.

XIII. DISPUTES

Disputes arising under this Agreement shall be resolved by a panel consisting of one representative from the AOC, one representative from the Court, and a mutually agreed upon third party. The dispute panel shall thereafter decide the dispute with the majority prevailing. Neither party shall have recourse to the courts unless there is a showing of noncompliance or waiver of this section.

XIV. TERMINATION

Either party may terminate this Agreement upon thirty (30) days written notice to the other party. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination

XV. GOVERNANCE

This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement must be construed to conform to those laws. In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency will be resolved by giving precedence in the following order:

- A. Applicable state and federal statutes and rules;
- B. This Agreement; and
- C. Any other provisions of the agreement, including materials incorporated by reference.

XVI. ASSIGNMENT

The work to be provided under this Agreement, and any claim arising hereunder, is not assignable or delegable by either party in whole or in part, without the express prior written consent of the other party, which consent shall not be unreasonably withheld.

XVII. WAIVER

A failure by either party to exercise its rights under this Agreement does not preclude that party from subsequent exercise of such rights and is not a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement.

XVIII. SEVERABILITY

If any provision of this Agreement, or any provision of any document incorporated by reference is held invalid, such invalidity does not affect the other provisions of this Agreement which can be given effect without the invalid provision and to this end the provisions of this Agreement are declared to be severable.

XIX. AGREEMENT MANAGEMENT

The program managers noted below are responsible for and are the contact people for all communications and billings regarding the performance of this Agreement:

AOC Program Manager	Court Point of Contact
Yvonne Jones PO Box 41170 Olympia, WA 98504-1170 Yvonne.jones@courts.wa.gov (360) 704-5564	Geri Resch, Judicial Branch Administrator 1104 Maple St. Sumner, WA 98390 reschg@ci.bonney-lake.wa.us (253) 447-4306

XX. ENTIRE AGREEMENT

This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Agreement are considered to exist or to bind any of the parties to this agreement unless otherwise stated in this Agreement.

AGREED:

Administrative Office of the Courts

Court

Signature

Date _____

Signature

Date _____

Christopher Stanley

Name _____

Geri Resch

Name

CFO and MSD Division Director

Title

Judicial Branch Administrator

Title

SUBJECT: Ordinance No. 2897- Amending the 2023/2024 Biennial Budget

CATEGORY: Ordinance

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Ordinance No. 2897 - Amending the 2023/2024 Biennial Budget

STAFF CONTACT: Cassandra Raymond, Chief Financial Officer

SUMMARY BACKGROUND: The 2023/2024 Biennial Budget was adopted on December 5, 2022 with Ordinance No. 2838. Staff regularly reviews the budget progress as well as any programmatic changes. Based on this review, staff presents the third quarter 2024 budget amendment for consideration. This budget amendment includes:

- General Fund (001):
 - Transfer \$41,000 from fund balance to Fund 410 for the acquisition of a John Deere workman (replacing failed equipment);
 - Program \$100,000 for additional professional services for specialized building and plan review in Development Services;
- Tourism Fund (106): Program \$75,000 for Street Tree Replacement Project (City Council 09/03/2024);
- ARPA Fund (115): Reprogram \$50,000 from cybersecurity to professional services relating to the Heritage Park project, as a transfer out to Fund 310;
- Parks Capital Fund (310): Recognizes transfer-in of \$50,000 from the ARPA Fund and programs associated expenditure;
- Sewer Fund (402): Reduces Digester Maintenance by \$156,000; will be included in 2025/2026 Biennial Budget;
- Cemetery Operating Fund (410): Recognizes transfer-in of \$41,000 from the General Fund and programs associated expenditure for equipment acquisition.

Ord No. 2897		
BA 10/07/2024		
	<i>Revenues</i>	<i>Expenditures</i>
General Fund	\$ -	141,000
Reserve Funds	-	-
Special Revenue Funds	-	125,000
Debt Service Funds	-	-
Capital Funds	50,000	50,000
Utility Funds	-	(156,000)
Other Enterprise Funds	41,000	41,000
Internal Service Funds	-	-
Fiduciary Funds	-	-
	\$ 91,000	\$ 201,000

COUNCIL COMMITTEE/STUDY SESSION: Finance & Personnel Committee

MEETING/STUDY SESSION DATE: 9/12/2024

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

Adopt Ordinance No. 2897 amending the 2023/2024 Biennial Budget

**ORDINANCE NO. 2897
CITY OF SUMNER, WASHINGTON**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, AMENDING THE 2023-2024 BIENNIAL BUDGET AS ORIGINALLY ADOPTED IN ORDINANCE NO. 2838, APPROVED DECEMBER 5, 2022, AND PREVIOUSLY AMENDED IN ORDINANCE 2849, APPROVED MARCH 20, 2023, ORDINANCE 2855, APPROVED JUNE 5, 2023, ORDINANCE 2858, APPROVED JUNE 20, 2023, ORDINANCE 2866, APPROVED AUGUST 7, 2023, ORDINANCE 2871, APPROVED SEPTEMBER 18, 2023, ORDINANCE 2872, APPROVED OCTOBER 16, 2023, ORDINANCE 2874, APPROVED DECEMBER 11, 2023, ORDINANCE 2883, APPROVED MARCH 18, 2024, ORDINANCE 2890, APPROVED JULY 1, 2024, AND ORDINANCE 2893, APPROVED JULY 15, 2024.

WHEREAS, The Sumner City Council approved Ordinance No. 2838 which adopted a biennial budget for fiscal years 2023-2024; and

WHEREAS, The Sumner City Council approved Ordinance No. 2849 which amended the 2023-2024 biennial budget for fiscal years 2023-2024; and

WHEREAS, The Sumner City Council approved Ordinance No. 2855 which amended the 2023-2024 biennial budget for fiscal years 2023-2024; and

WHEREAS, The Sumner City Council approved Ordinance No. 2858 which amended the 2023-2024 biennial budget for fiscal years 2023-2024; and

WHEREAS, The Sumner City Council approved Ordinance No. 2866 which amended the 2023-2024 biennial budget for fiscal years 2023-2024; and

WHEREAS, The Sumner City Council approved Ordinance No. 2871 which amended the 2023-2024 biennial budget for fiscal years 2023-2024; and

WHEREAS, The Sumner City Council approved Ordinance No. 2872 which amended the 2023-2024 biennial budget for fiscal years 2023-2024; and

WHEREAS, The Sumner City Council approved Ordinance No. 2874 which amended the 2023-2024 biennial budget for fiscal years 2023-2024; and

WHEREAS, The Sumner City Council approved Ordinance No. 2883 which amended the 2023-2024 biennial budget for fiscal years 2023-2024; and

WHEREAS, The Sumner City Council approved Ordinance No. 2890 which amended the 2023-2024 biennial budget for fiscal years 2023-2024; and

WHEREAS, The Sumner City Council approved Ordinance No. 2893 which amended the 2023-2024 biennial budget for fiscal years 2023-2024; and

WHEREAS, RCW 35A.34 provides procedures for adopting, managing, and amending a biennial budget; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON
DO ORDAIN AS FOLLOWS:**

Section 1. Amendment. The biennial budget for the City of Sumner for the period January 1, 2023 through December 31, 2024 as contained in the adopted 2023-2024 Biennial Budget for total revenue/sources and expenditures/uses as approved by the City Council, is hereby amended by Total Revenue and Expenditures for each fund as shown on the attached Exhibit A.

Section 2. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

Section 3. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of the ordinance or the validity of its application to other person's circumstances.

Section 4. Effective Date. This Ordinance shall become effective five (5) days from and after its passage, approval, and publication as provided by law.

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington, at a regular meeting thereof this 7th day of October, 2024.

Mayor Kathy Hayden

ATTEST:

APPROVED AS TO FORM:

City Clerk Michelle Converse, CMC

City Attorney Andrea Marquez

BA 07/15/2024 Funds	Beginning Fund Balance		Revenues		Expenditures			Ending Fund Balance
	<i>Adopted</i>	<i>Adopted</i>	<i>Previous</i>	<i>10/07/24</i>	<i>Adopted</i>	<i>Previous</i>	<i>10/07/24</i>	<i>Revised</i>
001 General	11,300,000	\$ 41,287,140	\$ 1,919,007	\$ -	\$ 40,975,513	\$ 2,723,467	\$ 141,000	\$ 10,666,166
002 General Fund Reserves	980,824	-	-	-	-	-	-	980,824
003 Building Reserves	450,756	200,000	-	-	390,000	-	-	260,756
103 Complete Streets	-	-	500,000	-	-	500,000	-	-
105 Drug Enforcement	65,510	-	-	-	4,000	-	-	61,510
106 Hotel/Motel	262,600	205,000	-	-	338,156	-	75,000	54,444
115 ARPA Funding	680,624	-	-	-	50,100	124,168	50,000	456,356
200 Debt Service	2,570,000	465,800	-	-	496,100	-	-	2,539,700
221 LID Guarantee	691,569	-	-	-	-	-	-	691,569
302 Sidewalk	412,457	530,000	903,200	-	880,000	633,200	-	332,457
305 Real Estate Excise Tax	851,288	1,600,000	-	-	550,000	-	-	1,901,288
310 Parks & Trails Capital Fund	423,721	4,868,061	6,407,780	50,000	5,131,106	5,595,280	50,000	973,176
320 Street Capital Fund	7,709,379	17,364,200	3,605,753	-	24,625,588	3,687,753	-	365,991
325 Facilities Capital Fund	50,000	515,000	3,386,000	-	565,000	3,286,000	-	100,000
401 Water	13,219,995	10,189,150	-	-	20,279,605	529,985	-	2,599,555
402 Wastewater	9,286,248	15,566,163	36,150	-	21,270,227	308,110	(156,000)	3,466,224
403 Utility Bond Reserves	1,731,342	-	-	-	-	-	-	1,731,342
408 Stormwater	8,227,784	38,031,772	9,500,000	-	42,424,254	10,596,985	-	2,738,317
410 Cemetery Operations	74,238	1,498,200	16,500	41,000	1,425,316	25,000	41,000	138,622
415 Cemetery Development	208,994	300,000	-	-	300,000	-	-	208,994
440 Animal Control	94,087	2,093,628	(35,519)	-	2,062,680	9,650	-	79,866
501 Unemployment Insurance	9,351	-	-	-	3,991	-	-	5,360
550 Fleet Management	94,835	1,498,570	-	-	1,551,411	-	-	41,994
551 Information Technology	479,281	3,264,440	124,650	-	3,336,088	139,650	-	392,633
555 Equipment Reserve	1,942,959	2,126,935	-	-	1,770,000	-	-	2,299,894
601 Cemetery Endowment	1,545,873	33,000	-	-	-	-	-	1,578,873
605 Development Impact Fees	6,898,068	500,000	-	-	998,833	1,123,415	-	5,275,820
611 Firemen's Pension	29,798	164,000	-	-	160,000	-	-	33,798
Total All Funds	\$ 70,291,581	\$ 142,301,059	\$ 26,363,521	\$ 91,000	\$ 169,587,969	\$ 29,282,663	\$ 201,000	\$ 39,975,529

SUBJECT: Ordinance 2898 - Amending SMC 12.60 City Parks, Trails, and Facilities

CATEGORY: Ordinance

BUDGET IMPACT:

ATTACHMENTS:

1. Ordinance No. 2898 - City Parks

STAFF CONTACT: Derek Barry, Community Services Manager

SUMMARY BACKGROUND:

The Sumner Municipal Code needs updates from time to time. The intent of this code update is to clarify rules related to the public's use of a few facilities and change the hours of use for Rainier View Park's new covered court and restroom facility. This update was presented to the Forestry & Parks Commission on September 12, 2024. They agreed with the changes and recommended it be presented to Council for adoption.

COUNCIL COMMITTEE/STUDY SESSION: Community Development Committee
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MEETING/STUDY SESSION DATE: 9/25/2024

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

Move to approve Ordinance 2898 - updating SMC 12.60 - City Parks, Trails and Facilities

**ORDINANCE NO. 2898
CITY OF SUMNER, WASHINGTON**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, AMENDING THE FOLLOWING SECTIONS OF CHAPTER 12.60 ENTITLED CITY PARKS, TRAILS AND FACILITIES, 12.60.100 CITY HALL, 12.60.130 WASTE WATER TREATMENT PLANT, 12.60.140 CITY SHOPS, AND 12.60.155 RAINIER VIEW COVERED COURT.

WHEREAS, the City of Sumner has established guidelines, standards and procedures for the use of City Parks, Trails and Facilities;

WHEREAS, the City of Sumner desires to clarify rules for its governance, and from time to time it becomes necessary to update the rules that govern certain parks, trails or facilities; and

WHEREAS, the adoption of this ordinance updates certain rules that apply to recently-updated parks and particular use of the City Parks, Trails and Facilities.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 2. The following sections of SMC 12.60.100 shall be amended as follows:

12.60.100 City Hall.

The City Hall council chambers are available for use for meetings only; provided a city staff person or responsible government official is in attendance during such use of the council chambers.

Approval of the use of City Hall ~~for any purpose that does not otherwise violate state or local rules or regulations~~ ~~shall~~ may be granted by the mayor or city administrator, or approved by a majority of the council. (Ord. 2677 § 1 (part), 2019: Ord. 2605 § 5, 2017)

Section 3. The following section SMC 12.60.130 shall be amended as follows:

12.60.130 Waste water treatment plant.

The mayor or city administrator ~~shall~~ may develop and implement rules for the public's use of the waste water treatment plant. (Ord. 2677 § 1 (part), 2019: Ord. 2480 § 1 (part), 2014: Ord. 1812 § 13, 1997)

Section 4. The following section SMC 12.60.140 shall be amended as follows:

12.60.140 City shops.

The mayor or city administrator ~~shall~~ may develop and implement rules for the public's use of the city shops. (Ord. 2677 § 1 (part), 2019: Ord. 2480 § 1 (part), 2014: Ord. 1812 § 14, 1997)

Section 5. The following section SMC 12.60.155 shall be amended as follows:

12.60.155 Rainier View Park.

The park shall not be available for reservations; however, under certain conditions, as outlined in SMC [12.60.030](#) and chapter [12.52](#) SMC, it may be used as a venue for a special event that is open to the public. [The hours for the covered court and adjacent public restroom only shall be 8 a.m. to 9 p.m. daily.](#) (Ord. 2677 § 1 (part), 2019: Ord. 2605 § 8, 2017)

Section 6. Severability. If a section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. If the provisions of this ordinance are found to be inconsistent with other provisions of the Sumner Municipal Code, this ordinance is deemed to control.

Section 7. Effective date. This ordinance shall take effect five (5) days from approval and the date of publication in the City's official newspaper.

Section 8. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington, at a regular meeting thereof this ____ day of _____

Mayor Kathy Hayden

ATTEST:

APPROVED AS TO FORM:

City Clerk Michelle Converse, CMC

Andrea Marquez, City Attorney

First Reading:
Date Adopted:
Date of Publication:
Effective Date:

SUBJECT: Ordinance No. 2895 - Amending Sumner Municipal Code - Pretreatment Regulations

CATEGORY: Ordinance

BUDGET IMPACT:

Expenditure Required: None

Within Budget Allocation: N/A

ATTACHMENTS:

1. Summary of Proposed Changes to Pretreatment Regulations
2. Ordinance No. 2895 - Amending Sumner Municipal Code - Pretreatment Regulations

STAFF CONTACT: Andria Hannegan, Pretreatment Coordinator

SUMMARY BACKGROUND:

The Department of Ecology reviewed the City of Sumner Pretreatment Program's Request for Delegation submitted on June 1, 2024, and provided comments requiring specific revisions to ensure compliance with both state and federal regulations. The proposed revisions to the Sumner Municipal Code address the administrative adjustments identified by City staff and incorporate comments and requirements set forth by the Department of Ecology, ensuring the City's program remains effective and compliant.

COUNCIL COMMITTEE/STUDY SESSION: Public Works Committee

MEETING/STUDY SESSION DATE: 8/6/2024
--

COMMITTEE RECOMMENDATION: Do Pass

STAFF RECOMMENDATIONS/MOTION:

A motion to adopt Ordinance No.: 2895, revising sections of Chapter 13.18, substantially in the form as approved by the City Attorney.

Proposed Changes to Ord. 2839

Proposed Change Number	Type of Change	Nature of Change
1	Correction of incorrect reference number	Numerical correction
2	Correction of typographical error	Text removal
3	Correction of typographical error	Text addition
4	Substantive change to definition	Text replacement
5	Correction of incorrect reference numbers	Numerical correction
6	Correction for clarity and readability	Text rearrangement
7	Correction of incorrect reference numbers	Numerical correction
8	Correction of incorrect reference number	Numerical correction
9	Correction of incorrect reference number	Numerical correction
10	New definition addition	Definition addition
11	New definition addition	Definition addition
12	New definition addition	Definition addition
13	New definition addition	Definition addition
14	New definition addition	Definition addition
15	New definition addition	Definition addition
16	Substantive clarification	Text addition
17	Substantive correction	Text removal
18	Form name update	Terminology update

1. 13.16.210(B) reads, in part: “The permit fee structure for all nondomestic wastewater is included in chapter 13.49 SMC.”
 - Change 49 to 16 - “The permit fee structure for all nondomestic wastewater is included in chapter 13.4916 SMC.”
2. 13.18.210: The definition of “Nondischarging categorical industrial user (NDCIU)” reads, in part, “...that does not discharge those [that] wastewater subject to the categorical pretreatment standard...”
 - Remove text as shown - “...that does not discharge ~~those [that]~~ wastewater subject to the categorical pretreatment standard...”
3. 13.18.210: The definition of “Oil/water separator (OWS)” reads, in part, “These vaults are designed with baffles or coalescing plates to rap sediments...”
 - Add the letter ‘t’ as shown - “These vaults are designed with baffles or coalescing plates to ~~rap~~ trap sediments...”
4. 13.18.210: The definition of “Sampling facility” reads, simply, “Flow, instantaneous temp, pH, composite.”
 - Remove original text, replace with the following definition - "A structure or sampling installation for the purpose of accurately measuring the volume or flow and sampling of wastewater; the design, location and operation of which must be approved by the Director."
5. 13.18.430(A) reads, in part: “The hauler of approved wastes shall be responsible for ensuring such that wastes comply with all discharge prohibitions in SMC 13.18.200 through SMC 13.18.240 and other applicable control authority or contributing jurisdiction requirements.”
 - Change numbers in the underlined reference as shown - “The hauler of approved wastes shall be responsible for ensuring such that wastes comply with all discharge prohibitions in SMC 13.18.2300 through SMC 13.18.2340 and other applicable control authority or contributing jurisdiction requirements.”
6. 13.18.430(A) reads, in part, “The hauler of approved wastes shall be responsible for ensuring such that wastes comply with all discharge prohibitions...”
 - Rearranged the underlined words as show – “The hauler of approved wastes shall be responsible for ensuring ~~such~~ that ~~such~~ wastes comply with all discharge prohibitions...”

7. 13.18.840(C) reads: “Nondomestic users shall provide full access to the director to use any monitoring facilities and utilities available or required in accordance with SMC 13.18.410 and 13.18.420(E) through (F) to confirm that the standards or treatment required for discharge to the POTW are being met.”
 - Change numbers in the underlined reference as shown - “Nondomestic users shall provide full access to the director to use any monitoring facilities and utilities available or required in accordance with 13.18.4~~100~~ and 13.18.4~~210~~(E) through (F) to confirm that the standards or treatment required for discharge to the POTW are being met.”
8. 13.18.1500(A)(3) reads: “Suspend a nondomestic user’s wastewater services or wastewater discharge permit or other control document pursuant to SMC 13.18.1200.”
 - Change the underlined reference as show - “Suspend a nondomestic user’s wastewater services or wastewater discharge permit or other control document pursuant to SMC 13.18.1~~200~~70.”
9. 13.18.1500(A)(4) reads: “Terminate the nondomestic user’s wastewater services or wastewater discharge permit or other control document pursuant to SMC 13.18.1210.”
 - Change the underlined reference as shown - “Terminate the nondomestic user’s wastewater services or wastewater discharge permit or other control document pursuant to SMC 13.18.1~~210~~80.”
10. 13.18.210 Definitions:
 - Add the definition of accredited laboratory based on the guidance from 173-216 WAC & 173-50 WAC as shown – “**Accredited Laboratory.** Any laboratory accredited under the provisions of, Accreditation of Environmental Laboratories, Chapter 173-50 Washington Administrative Code (WAC).”
11. 13.18.210 Definitions:
 - Add the definition of Engineering report based on the guidance from WAC 173-240-130 as shown “**Engineering Report.** A document that thoroughly examines the engineering and administrative aspects of a particular non-domestic wastewater facility. The report shall contain the appropriate information required in WAC 173-240-060 or 173-240-130.”
12. 13.18.210 Definitions:
 - Add the definition of Notice of Application based on the guidance from WAC 173-216-090 as shown – “**Notice of Application.** A public notice of application filed in compliance with WAC 173-216-090.”

13. 13.18.210 Definitions:

- Add the definition of Operation and Maintenance Manual based on the guidance from WAC 173-240-150 as shown – “Operation and Maintenance Manual. A detailed operation and maintenance manual is prepared for an industrial wastewater facility that includes mechanical components before completing the construction. The manual shall contain all components listed in WAC 173-240-150.”

14. 13.18.210 Definitions:

- Add the definition of Plan Review Authority based on the guidance from RCW 90.48.110 as shown – “Plan Review Authority. The authority granted to the Control Authority to review and approve all engineering reports, plans, and specifications for the construction of non-domestic wastewater treatment facilities before construction thereof may begin. No approval shall be given until the Director is satisfied that said plans and specifications and the methods of operation and maintenance submitted are adequate to protect the quality of the state's waters as provided for in RCW 90.48.110.”

15. 13.18.210 Definitions:

- Add the definition of Plans and Specifications based on the guidance from WAC 173-240-140 as shown – “Plans and Specifications. The detailed drawings and specifications used in the construction or modification of non-domestic wastewater facilities as provided in WAC 173-240-140. Except as otherwise allowed, plans and specifications are preceded by an approved engineering report. For some industrial facilities final conceptual drawings for all or parts of the system may be substituted for plans and specifications with the permission of the Director.”

16. 13.18.650 reads in part “The Director may terminate or revoke a Wastewater Discharge permit or other Control Document for good cause, including, but not limited to, when a Non-Domestic User has:”

- Add clarifying language for permit termination as part of the control mechanism (e.g., permit) based on the guidance from WAC 173-216-130, as shown – “The Director may terminate or revoke a Wastewater Discharge permit or other Control Document for good cause, including, but not limited to, when a Non-Domestic User has:

17. 13.18.330 Local Limits – removed Draft from Table Title and removed Aluminum from list of pollutants.

Table 330-1: Initial ~~DRAFT~~ Local Limits (Subject to Director Modification)

Analyte	Daily Maximum Concentration Limit (mg/L)	Instantaneous Concentration Limit (mg/L)
Arsenic	0.14	0.28
Aluminum	TBD	TBD
Cadmium	0.12	0.24
Chromium	4.05	5.0

18. Change name of screening form from “Non-Domestic Wastewater Survey” to “Non-Domestic Screening Form” - This is a terminology update that reflects a change in the title of the form used in relation to the pretreatment program. The change does not alter the function or requirements of the form but simply updates the name.

- Sections where the name of the form is changed:
 - 13.18.300
 - 13.18.500
 - 13.18.510
 - 13.18.530
 - 13.18.550
 - 13.18.650
 - 13.18.760
 - 13.18.1180

ORDINANCE NO. 2895

CITY OF SUMNER, WASHINGTON

AN ORDINANCE OF THE CITY OF SUMNER, WASHINGTON, AMENDING TITLE 13 OF THE SUMNER MUNICIPAL CODE TO INCORPORATE CHANGES TO CHAPTER 18 AS REQUESTED BY THE DEPARTMENT OF ECOLOGY.

WHEREAS, the City of Sumner provides wastewater utility services to residential, commercial and industrial users within the City of Sumner sewer service area, and owns and operates the Sumner Wastewater Treatment Facility; and

WHEREAS, the Sumner Wastewater Treatment Facility (WWTF) has met the Federal threshold for requiring a locally administered Pretreatment Program by having reached a design capacity of greater than 5.0 Million Gallons Per Day (MGD) and receives wastewater from one or more Significant Industrial Users (SIU); and

WHEREAS, the Federal Rules at 40 CFR 403.8(b) compel the City to develop an approved pretreatment program meeting state and federal requirements unless the Washington State Department of Ecology determines, as allowed under 40 CFR 403.10(e), to assume such responsibilities; and

WHEREAS, the Department of Ecology has determined that it will decline to exercise the option of continuing to permit tributary users of the Sumner WWTF in accordance with State Laws at RCW 40.48.165 and at WAC 173-216-150 allowing delegation of pretreatment program authority and responsibility where rules at WAC 173-208 “Grant of Authority Sewerage Systems” are met; and

WHEREAS, Sumner City Council adopted Ordinance No. 2839 on May 6, 2024 adopting code required for the City to have the legal authority to implement and manage a pretreatment program that is compliant with state and federal pretreatment program requirements; and

WHEREAS, the Department of Ecology reviewed the City of Sumner Pretreatment Program Request for Delegation submitted on June 1, 2024, and provided comments requiring specific revisions to ensure compliance with both state and federal regulations; and

WHEREAS, the City has identified certain clerical and typographical errors within the existing Sewer Ordinance that require correction to accurately reflect the original intent of the provisions; and

WHEREAS, the proposed revisions to Chapter 18 (Pretreatment Regulations) of the Sumner Municipal Code address the administrative errors and incorporate comments and requirements set forth by the Department of Ecology, ensuring the City’s program remains effective and compliant; and

WHEREAS, the revisions include updates to definitions and necessary modifications to align with state regulatory standards; and

WHEREAS, City Council recognizes that adopting the proposed revisions is in the best interest of public health, safety and welfare of its citizens, businesses and utility users and will promote the efficient and effective operation of the Sumner Wastewater Treatment Facility; and

WHEREAS, the adoption of these revisions will ensure continued compliance with state and federal pretreatment requirements, thereby protecting water quality and the environment.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SUMNER,
WASHINGTON, DO ORDAIN AS FOLLOWS:**

Section 1. Sumner Municipal Code Section 13.18 (PRETREATMENT REGULATIONS) is hereby amended by amending subsections as follows;

13.18.210 Definitions – added or modified the following definitions:

Accredited Laboratory. Any laboratory accredited under the provisions of, Accreditation of Environmental Laboratories, Chapter 173-50 Washington Administrative Code (WAC).

Engineering Report. A document that thoroughly examines the engineering and administrative aspects of a particular non-domestic wastewater facility. The report shall contain the appropriate information required in WAC 173-240-060 or 173-240-130.

Notice of Application. A public notice of application filed in compliance with WAC 173-216-090.

Non-Discharging Categorical Industrial User (NDCIU). Any Person that generates Wastewater subject to a Categorical Pretreatment Standard that does not Discharge ~~those~~ ~~{that}~~ Wastewaters subject to the Categorical Pretreatment Standard to the POTW. NDCIUs are considered a potential source of Indirect Discharge.

Oil/Water Separator (OWS). A pretreatment device with a large capacity underground vault installed between a drain serving a nonpolar FOG discharger and the connecting sewer pipe. These vaults are designed with baffles or coalescing plates to trap sediments and retain floating oils. The large capacity of the vault slows down the wastewater, allowing oil to float to the surface and solid material to settle on the bottom. Any customer that is a potential discharger of petroleum-based and/or nonpolar FOG is required to have an OWS.

Operation and Maintenance Manual. A detailed operation and maintenance manual is prepared for an industrial wastewater facility that includes mechanical components before completing the construction. The manual shall contain all components listed in WAC 173-240-150.

Plan Review Authority. The authority granted to the Control Authority to review and approve all engineering reports, plans, and specifications for the construction of non-

domestic wastewater treatment facilities before construction thereof may begin. No approval shall be given until the Director is satisfied that said plans and specifications and the methods of operation and maintenance submitted are adequate to protect the quality of the state's waters as provided for in RCW 90.48.110.

Plans and Specifications. The detailed drawings and specifications used in the construction or modification of non-domestic wastewater facilities as provided in WAC 173-240-140. Except as otherwise allowed, plans and specifications are preceded by an approved engineering report. For some industrial facilities final conceptual drawings for all or parts of the system may be substituted for plans and specifications with the permission of the Director.

13.18.330 Local Limits – removed Draft from Table Title and removed Aluminum from list of pollutants.

Table 330-1: Initial ~~DRAFT~~ Local Limits (Subject to Director Modification)

Analyte	Daily Maximum Concentration Limit (mg/L)	Instantaneous Concentration Limit (mg/L)
Arsenic	0.14	0.28
Aluminum	TBD	TBD
Cadmium	0.12	0.24
Chromium	4.05	5.0

13.18.430(A) – Correction of incorrect reference number and text rearrangement.

The hauler of approved wastes shall be responsible for ensuring ~~such~~ that ~~such~~ wastes comply with all discharge prohibitions in SMC 13.18.~~23~~00 through SMC 13.18.~~23~~40 and other applicable control authority or contributing jurisdiction requirements.

13.18.650 Wastewater Permit Revocation – addition language to align with state requirements

The Director may ~~terminate or~~ revoke a Wastewater Discharge permit or other Control Document for good cause, including, but not limited to, when a Non-Domestic User has:

13.18.840(C) - Correction of incorrect reference number.

Nondomestic users shall provide full access to the director to use any monitoring facilities and utilities available or required in accordance with 13.18.4~~1~~00 and 13.18.4~~2~~10(E) through (F) to confirm that the standards or treatment required for discharge to the POTW are being met.

13.18.1500(A)(3) - Correction of incorrect reference number.

Suspend a nondomestic user's wastewater services or wastewater discharge permit or other control document pursuant to SMC 13.18.1~~120~~70.

13.18.1500(A)(4) - Correction of incorrect reference number.

Terminate the nondomestic user's wastewater services or wastewater discharge permit or other control document pursuant to SMC 13.18.1~~121~~80.

Change name of screening form from "Non-Domestic Wastewater ~~Survey~~" to "Non-Domestic ~~Screening Form~~" - This is a terminology update that reflects a change in the title of the form used in relation to the pretreatment program. The change does not alter the function or requirements of the form but simply updates the name.

Sections where the name of the form is changed:

13.18.300
13.18.500
13.18.510
13.18.530
13.18.550
13.18.650
13.18.760
13.18.1180

Exhibit A attached hereto is incorporated as though fully set forth herein.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

Section 4. **Severability.** Should any section, paragraph, sentence, clause, or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or invalid for any reason, or should any portion of the Ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 5. **Effective Date.** This Ordinance shall become effective five (5) days after its passage, approval, and publication as provided by law.

Section 6. **Corrections by City Clerk or Code Reviser.** Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

Passed by the City Council and approved by the Mayor of the City of Sumner, Washington, at a regular meeting thereof this _____ day of _____ 2024.

Mayor Kathy Haden

ATTEST:

APPROVED AS TO FORM:

City Clerk Michelle Converse

City Attorney Andrea Marquez

First Reading:

Date Adopted:

Date of Publication:

Effective Date:

Exhibit A



PRETREATMENT REGULATIONS

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

Contents

SECTION 1. GENERAL PROVISIONS	6
13.18.010 PURPOSE AND POLICY	6
13.18.020 ADMINISTRATION	6
SECTION 2. ABBREVIATIONS AND DEFINITIONS	7
13.18.200 ABBREVIATIONS	7
13.18.210 DEFINITIONS	8
SECTION 3. GENERAL SEWER USE REQUIREMENTS	17
13.18.300 PROHIBITED DISCHARGES STANDARDS.....	17
13.18.310 NATIONAL CATEGORICAL PRETREATMENT STANDARDS	20
13.18.320 STATE PRETREATMENT STANDARDS.....	23
13.18.330 LOCAL LIMITS	24
13.18.340 RIGHT OF REVISION	26
13.18.350 DILUTION.....	26
SECTION 4. PRETREATMENT OF WASTEWATER.....	27
13.18.400 PRETREATMENT FACILITIES.....	27
13.18.410 ADDITIONAL PRETREATMENT MEASURES	27
13.18.420 ACCIDENTAL DISCHARGE/SLUG DISCHARGE CONTROL PLANS	29
13.18.430 HAULED WASTEWATER.....	30
SECTION 5. WASTEWATER DISCHARGE PERMITS AND CONTROL DOCUMENTS	31
13.18.500 INDUSTRIAL USER SURVEYS SCREENING FORM.....	31
13.18.510 WASTEWATER DISCHARGE PERMIT REQUIREMENT	31
13.18.520 WASTEWATER DISCHARGE PERMITTING: EXISTING CONNECTIONS.....	32
13.18.530 WASTEWATER DISCHARGE PERMITTING: NEW CONNECTIONS	32
13.18.540 WASTEWATER DISCHARGE PERMIT APPLICATION CONTENTS	33
13.18.550 APPLICATION AND SURVEY SCREENING SIGNATORIES AND CERTIFICATIONS.....	35
13.18.560 WASTEWATER DISCHARGE PERMIT DECISIONS	35
SECTION 6. WASTEWATER DISCHARGE PERMIT ISSUANCE	36
13.18.600 WASTEWATER DISCHARGE PERMIT DURATION	36
13.18.610 WASTEWATER DISCHARGE PERMIT CONTENTS	36
13.18.620 PERMIT ISSUANCE PROCESS.....	38
13.18.630 WASTEWATER DISCHARGE PERMIT MODIFICATION	39
13.18.640 WASTEWATER DISCHARGE PERMIT TRANSFER	40
13.18.650 WASTEWATER DISCHARGE PERMIT REVOCATION	40
13.18.660 WASTEWATER DISCHARGE PERMIT REISSUANCE	41
SECTION 7. REPORTING REQUIREMENTS.....	41
13.18.700 BASELINE MONITORING REPORTS	42
13.18.710 COMPLIANCE SCHEDULE PROGRESS REPORTS.....	43
13.18.720 REPORTS ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARDS DEADLINE.....	44
13.18.730 PERIODIC COMPLIANCE REPORTS	44
13.18.740 REPORTS OF CHANGED CONDITIONS.....	46
13.18.750 REPORTS OF POTENTIAL PROBLEMS	46

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

13.18.760	REPORTS OF UNPERMITTED USERS	47
13.18.770	NOTICE OF VIOLATION / REPEAT SAMPLING AND REPORTING	47
13.18.780	NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE.....	47
13.18.790	ANALYTICAL REQUIREMENTS.....	49
13.18.800	SAMPLE COLLECTION	49
13.18.810	DATE OF RECEIPT OF REPORTS	51
13.18.820	RECORD KEEPING	51
13.18.830	CERTIFICATION STATEMENTS	52
SECTION 8. COMPLIANCE MONITORING		53
13.18.840	RIGHT OF ENTRY: INSPECTION AND SAMPLING.....	53
13.18.850	SEARCH WARRANTS	53
SECTION 9. CONFIDENTIALITY AGREEMENT		54
13.18.900	CONFIDENTIAL INFORMATION	54
SECTION 10. PUBLICATION OF USERS IN SIGNIFICANT NON-COMPLIANCE.....		54
13.18.1000	PUBLICATION OF USERS IN SIGNIFICANT NON-COMPLIANCE.....	54
SECTION 11. ADMINISTRATIVE ENFORCEMENT REMEDIES.....		56
13.18.1100	PROCEDURES	56
13.18.1110	NOTIFICATION OF VIOLATION.....	56
13.18.1120	CONSENT ORDERS	56
13.18.1130	COMPLIANCE REVIEW MEETING.....	56
13.18.1140	COMPLIANCE ORDERS	57
13.18.1150	CEASE AND DESIST ORDERS	57
13.18.1160	ADMINISTRATIVE FINES.....	57
13.18.1170	EMERGENCY SUSPENSIONS.....	58
13.18.1180	TERMINATION OF DISCHARGE	58
SECTION 12. JUDICIAL ENFORCEMENT REMEDIES		59
13.18.1220	INJUNCTIVE RELIEF.....	59
13.18.1230	CIVIL PENALTIES	60
13.18.1240	CRIMINAL PROSECUTION	60
13.18.1250	REMEDIES NONEXCLUSIVE	60
SECTION 13. SUPPLEMENTAL ENFORCEMENT ACTION		61
13.18.1300	SUPPLEMENTAL PENALTIES	61
13.18.1310	PERFORMANCE BONDS	61
13.18.1320	LIABILITY INSURANCE	61
13.18.1330	PAYMENT OF OUTSTANDING FEES AND PENALTIES	62
13.18.1340	WATER SUPPLY SEVERANCE	62
13.18.1350	PUBLIC NUISANCES	62
13.18.1360	CONTRACTOR LISTING.....	62
SECTION 14. AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS.....		62
13.18.1400	UPSET	62
13.18.1410	PROHIBITED DISCHARGE STANDARDS	63
13.18.1420	BYPASS	64

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

SECTION 15. ADMINISTRATIVE HEARING.....	65
13.18.1500 RIGHT TO ADMINISTRATIVE HEARING	65
13.18.1510 REQUEST FOR ADMINISTRATIVE HEARING	66
13.18.1520 HEARINGS OFFICER	67
13.18.1530 PETITION FOR DISQUALIFICATION.....	67
13.18.1540 PLEADINGS, BRIEFS, MOTIONS, SERVICE.....	68
13.18.1550 DEFAULT	68
13.18.1560 CONTINUANCE	68
13.18.1570 PROCEDURE AT HEARING	68
13.18.1580 RECORD OF PROCEEDINGS	69
13.18.1590 PUBLIC ACCESS	69
13.18.1600 EX PARTE COMMUNICATIONS.....	69
13.18.1610 ISSUANCE OF FINAL ORDER	70
SECTION 16 JUDICIAL REVIEW	71
13.18.1620 FINAL ACTION	71
SECTION 17 WASTEWATER TREATMENT CHARGES AND FEES	72
13.18.1700 PRETREATMENT CHARGES AND FEES	72
13.18.1710 HIGH STRENGTH USER CHARGES AND FEES	72
SECTION 18 MISCELLANEOUS PROVISIONS	73
13.18.1800 SEVERABILITY	73
13.18.1810 CONFLICT	73

Section 1. General Provisions

13.18.010 Purpose and Policy

These Regulations set forth uniform requirements for Users of Publicly Owned Treatment Works (POTW) for the Sumner Wastewater Treatment Facility (WWTF) and Contributing Jurisdictions (Contributing Jurisdictions) to comply with all applicable State and Federal laws, including Washington Administrative Code Chapter 173-216, the Clean Water Act (33 United States Code, Section 1251 et seq.), and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403).

The objective of these Regulations are:

- A. To encourage economic growth by establishing clear, fair, standards and requirements for the management and pretreatment of non-domestic waste.
- B. To protect the POTW from potential harm. Harm to be prevented includes causing Interference or otherwise harming the POTW; causing Pass Through, or otherwise harming the receiving environment; or causing the POTW to respond to Discharge based on a real or perceived threat;
- C. To protect POTW staff who may be affected by Wastewater and sludge in the course of their employment and to protect general public;
- D. To promote reuse and recycling of Industrial Wastewater by Industrial Users;
- E. To provide high-quality end products, such as reclaimed water and biosolids from the POTW, for beneficial use;
- F. To provide for fees for the equitable distribution of the cost of operations, maintenance, and improvement of the POTW, as economically feasible; and
- G. To enable the Sumner WWTF to comply with its National Pollution Discharge Elimination System (NPDES) permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the POTW is subject.

These Regulations shall apply to all Persons connected (or believed connected) to the POTW. The Regulations compel the production of information; authorize the issuance of Control Documents, including Wastewater Discharge permits; provide for monitoring, compliance, and enforcement activities; establish administrative review procedures; require reporting; and provide for the setting of fees for the equitable distribution of costs resulting from the program establishment herein.

The provisions of these Regulations shall be revised or amended from time to time, consistent with the purpose and policy set forth within these Pretreatment Regulations, to conform to changes in the State and Federal water quality laws and regulations.

13.18.020 Administration

Except as otherwise provided herein, as the Owner of the Sumner Wastewater Treatment Facility (WWTF), the City of Sumner (City), is the Control Authority responsible for administering and managing the overall affairs of the WWTF. The City of Bonney Lake (CoBL) is the owner of a system of sewers that provide for the collection and transmission of Wastewater to the WWTF. CoBL is the Contributing Jurisdiction (Contributing Jurisdiction) responsible for managing their system of sewers connected to the WWTF.

The City Public Works Director (Director) shall administer, implement, and enforce the provisions of these Regulations. Any powers granted to, or duties imposed upon, the Director may be delegated by the Director to other Control Authority, WWTF or Contributing Jurisdiction personnel. The Director is authorized to adopt implementing procedures consistent with these Pretreatment Regulations.

Section 2. Abbreviations and Definitions

13.18.200 Abbreviations

The following abbreviations, when used in these Pretreatment Regulations, shall have the designated meanings:

AKART – All Known, Available and Reasonable Method of Prevention, Control and Treatment

ASPP – Accident Spill Prevention Plan

BOD – Biochemical Oxygen Demand

BMPs – Best Management Practices

CFR – Code of Federal Regulations

CIU – Categorical Industrial User

EPA – U.S. Environmental Protection Agency

GI – Grease Interceptor

GPD – gallons per day

IU – Industrial User

LEL – Lower Explosive Limit

mg/L – milligrams per liter

MIU – Minor Industrial User

NAICS – North American Industry Classification System

NOV – Notice of Violation

NDCIU – Non-Discharging Categorical Industrial User

NPDES – National Pollutant Discharge Elimination System

POTW – Publicly Owned Treatment Works

RCRA – Resource Conservation and Recovery Act

RCW – Revised Code of Washington

SIC – Standard Industrial Classification

SIU – Significant Industrial User

TSS – Total Suspended Solids

U.S.C. – United States Code

UPC - Uniform Plumbing Code

WAC – Washington Administrative Code

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

WWTF – Wastewater Treatment Facility

13.18.210 Definitions

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

Accredited Laboratory. Any laboratory accredited under the provisions of, Accreditation of Environmental Laboratories, Chapter 173-50 Washington Administrative Code (WAC)

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 et seq.

AKART. All known, available, and reasonable methods of prevention, control, and treatment. AKART represents the most current methodology that may reasonably be required for preventing, controlling, or abating the Pollutants associated with a Discharge. The concept of AKART applies to both point and nonpoint sources of pollution. The term Best Management Practices is a subset of the AKART requirement.

Ammonia Nitrogen (NH₃ or NH₃-N). All the nitrogen in water, sewage, or other liquid waste present in the form of ammonia, ammonia ion or in the equilibrium $\text{NH}_3 + \text{NH}_4^+ + \text{H}^+$, expressed as mg/L.

Approval Authority. Ecology’s Water Quality Program Manager or designee.

Authorized Representative of the Non-Domestic User.

- i. If the Non-Domestic User is a corporation, regardless of form:
 1. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other individual or Person who performs similar policy or decision-making functions for the corporation; or
 2. 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.
- ii. If the Non-Domestic User is a partnership or sole proprietorship, regardless of form: a general partner or proprietor, or Person who performs similar policy or decision-making functions for the partnership or sole proprietorship.
- iii. If the Non-Domestic 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.

The individuals described 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 Director.

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

Auto Related Business (ARB). Any commercial business conducting automobile and other vehicle repair, maintenance, washing, painting, salvaging services or selling automobiles or parts.

Baseline Monitoring Report (BMR). The normal and expected levels of pollutants in a non-domestic waste stream.

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).

Best Management Practices or BMPs. Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2.A(A) and (B) of these Pretreatment Regulations and 40 CFR Part 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.

Bypass. The intentional diversion of waste streams from any portion of a Non-Domestic User's Pretreatment Facility.

Categorical Industrial User or CIU. A Non-Domestic User subject to a Categorical Pretreatment Standard.

Categorical Pretreatment Standard. Any regulation containing pollutant discharge limits promulgated by the 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 Non-Domestic User and which appear in 40 CFR Chapter I, Subchapter N, Parts 405471.

Contributing Jurisdiction. A county, city, town, water-sewer district, public utility district, other special purpose district, municipal corporation, or other unit of local government of this or another state and any Indian tribe recognized as such by the United States government authorized by law to provide a system of sewers for the collection, transmission, or treatment of Wastewater that has entered into an agreement with the Control Authority that provides for acceptance of some or all of that entity's Wastewater.

Control Authority. The City of Sumner, as the Owner of the Sumner Wastewater Treatment Facility (WWTF) who administers and manages the overall affairs of the WWTF, including treatment operations and without limitation the administration of these Pretreatment Regulations.

Control Document. A Wastewater Discharge permit or any other formal written Wastewater Discharge authorization or prohibition issued by the Director.

Composite Sample. A representative composite of samples of a waste stream taken throughout the period of a calendar day, or equivalent representative 24-hour period, 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 Director has determined that flow proportionate samples are not required or the analyte is not amenable to composite sampling (pH, temperature, oil, etc.).

Daily Maximum Limit. The maximum allowable Discharge of a Pollutant over a calendar day or equivalent representative 24-hour period. Where daily limits are expressed in units of mass, the daily Discharge is calculated by multiplying the daily average concentration and total flow volumes in the same 24-hour period by a conversion factor to get the desired units. Where daily limits are expressed in terms of a concentration, the daily Discharge is the Composite Sample value, or flow weighted average if more than one discrete

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

sample was collected. Where flow weighting is infeasible, the daily average is the arithmetic average of all samples if analyzed separately, or the sample value if samples are composited prior to analysis.

Dangerous Waste. Solid wastes designated in Washington Dangerous Waste Regulations WAC 173-303-070 through 179-303-100 as dangerous, or extremely hazardous or mixed waste. The waste may be any of the following: Characteristics hazardous waste (toxicity, corrosivity, ignitability, reactivity); listed hazardous waste; and/or state-only dangerous waste for toxicity or persistence.

Dental Establishment. Means a facility where the practice of dentistry is performed, including, but not limited to, institutions, permanent or temporary offices, clinics, home offices, and facilities owned and operated by federal, state or local governments, that discharges wastewater to a publicly owned treatment works (POTW).

Director. Public Works Director of the Control Authority, or the designee of the Director, including without limitation any designated officer, employee or other representative of any Contributing Jurisdiction, who is delegated certain duties and responsibilities by these Pretreatment Regulations.

Discharge or Indirect Discharge. The introduction of Pollutants into the POTW from any Non-Domestic User or Non-Domestic source subject to these Pretreatment Regulations or other State or Federal regulations.

Domestic User. Any Person who contributes, causes, or allows the contribution of Wastewater to the POTW that the Director determines is of similar volume and/or chemical make-up to that of a residential dwelling unit. Discharges from a residential dwelling unit typically include kitchen wastes, human wastes, and housekeeping cleaning materials in volumes and/or concentrations normally discharged from these classes of users and typically include up to 100 gallons per capita per day, 30 mg/L NH₃, 300 mg/L of BOD, and 300 mg/L of TSS.

Domestic Wastewater. A source of waste or wastewater generated from activities at a residential dwelling unit.

Ecology. The Washington State Department of Ecology.

Engineering Report. A document that thoroughly examines the engineering and administrative aspects of a particular non-domestic wastewater facility. The report shall contain the appropriate information required in WAC 173-240-060 or 173-240-130.

EPA. The United States Environmental Protection Agency or, where appropriate, the Director of the Region 10 Water Division, or other duly authorized official.

Existing Source. Any source of Discharges subject to Categorical Pretreatment Standards and discharging prior to the promulgation of those Standards or otherwise not meeting the definition of a New Source.

Fats, Oils and Grease (FOG). Components of wastewater able to be measured by the methods described in the current edition of Standard Methods for the Examination of Water and Wastewater, or methods identified in 40 CFR Part 136. The term “fats, oils and grease” shall include polar and nonpolar fats, oils, and grease and other components extracted from wastewater by these methods.

Food Processing Establishment. Any establishment in which food is prepared, manufactured, or packaged, for consumption off site.

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

Food Service Establishment. Any establishment for the preparation and/or serving of food, or other edible products and/or are required to have a food business permit issued by the Tacoma-Pierce County Health Department. This term includes but is not limited to restaurants, coffee shops, cafeterias, breweries, wineries and distilleries, short order cafes, grocery store delis, luncheonettes, taverns, lunchrooms, places which manufacture retail sandwiches, church kitchens, childcare facility where food is prepared, adult care facility, institutional cafeterias, catering establishments, mobile food vending vehicles, food trucks, mobile vendor and operations connected therewith, and similar facilities by whatever name called.

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.

Gravity Grease Interceptor. A grease interceptor of at least 1,000 gallons to serve one or more fixtures and which is remotely located underground and outside of a food service establishment. It is designed to collect, contain or remove food wastes and FOG from the waste stream while allowing the balance of the liquid waste ("gray water") to discharge to the wastewater collection system by gravity.

Grease Interceptor. A pretreatment device designed to separate and collect fats, oils, grease, and solids and prevent these Pollutants from entering the sanitary sewer. Grease interceptors may be either hydromechanical grease interceptors (HGIs) or gravity grease interceptors (GGIs) and shall meet the requirements of SMC 13.18.400 and SMC 13.18.410. Grease interceptors shall be located to allow access for inspection and maintenance.

Grease Trap. A device designed to retain FOG from one to a maximum of four fixtures, with a maximum capacity of 50 gpm/100 pounds, and a minimum of 20 gpm/40 pounds. Grease traps shall be located to allow access for inspection and maintenance.

Hydromechanical Grease Interceptor. A device located inside a food service establishment designed to retain FOG from fixtures whose total capacity in gallons (gal) (L) shall not exceed 2½ times the certified gallons per minute (gpm) (L/s) flow rate of the interceptor in accordance with the Uniform Plumbing Code. It is designed to collect, contain, or remove food wastes and FOG from the wastestream while allowing the balance of the liquid waste to discharge to the wastewater collection system by gravity or mechanical means.

Hauled Waste. A waste transported by haulers and discharged to a POTW through a conveyance system other than a pipe (e.g., by truck or rail). Hauled waste might be sewage or domestic waste, or it might include non-domestic waste, or a combination of both types of waste.

Hazardous Waste. Any waste designated as hazardous under the provisions of 40 CFR 261 or a dangerous waste under WAC 173-303 – *State Waste Discharge Permit Program, Dangerous Waste Regulations*.

High Strength Waste or Wastewater. Any waters or wastewater having concentrations of BOD or TSS in excess of 300 mg/L, having concentrations of NH₃ in excess 30 mg/L, or having concentrations of FOG in excess of 100 mg/L.

Industrial User. See definition for Non-Domestic User.

Industrial Waste. Any non-domestic waste, including without limitation, solid, liquid, or gaseous waste resulting from any commercial, industrial, manufacturing, trade, health service, educational institution, business, laboratory, research establishment or facility, or from the development, recovery, or processing of natural resources.

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

Industrial Wastewater. Non-domestic Wastewater, Process Wastewater or any liquid wastestream resulting from any commercial or industrial process; or from the development, recovery, or processing of natural resources.

Instantaneous Limit. The maximum concentration of a Pollutant allowed to be discharged at any time, determined from the analysis of a discrete (wastestream) sample. For analytes for which Non-Domestic Users must take a Grab Sample for compliance purposes, this standard is the same as the Daily Maximum Limit. For all other Pollutants, the instantaneous limit shall be twice the Daily Maximum Limit. For analytes for which Non-Domestic Users must take a Composite Sample for compliance purposes, this standard is twice the Daily Maximum Limit.

Interference. A Discharge that alone or in conjunction with Discharge(s) from other sources, either: (1) inhibits or disrupts the POTW, its treatment processes or operations; (2) inhibits or disrupts the WWTF's biosolids (sludge) processes, use or disposal; or (3) is a cause of a violation of the WWTF's NPDES permit or of the prevention of sewage biosolids use or disposal in compliance with statutory and/or regulatory provisions or permits issued thereunder, or any more stringent State or local regulations, including but not limited to the following: Section 405 of the Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act. A Discharge from a Non-Domestic User which causes a blockage resulting in a Discharge at a point not authorized under the NPDES permit(s) is included in the definition of Interference.

Local Limits. Effluent limitations developed for Non-Domestic Users by the Control Authority to specifically protect the POTW from the potential for deleterious impacts including Pass Through, Interference, and the beneficial use of biosolids. 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.

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.

Minor Industrial User or MIU. Any Non-Domestic User or Person that does not otherwise qualify as a Significant Industrial User of the POTW and is identified by the Director as having the potential to Discharge Wastewater that, when taken into account with the Wastewaters of other Industrial Users, may have a significant impact on the POTW.

Monthly Average. The arithmetic mean of the effluent sample results collected during a calendar month or specified 30-day period. 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.

New Source.

- (1) Any building, structure, facility, or installation from which there is (or may be) a Discharge of Pollutants, the construction of which commenced after the publication of proposed Categorical Pretreatment Standards under Section 307(c) of the Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that Section, provided that:

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

- a. The building, structure, facility, or installation is constructed at a site at which no other source is located;
 - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the Discharge of Pollutants at an Existing Source; or
 - c. The production or Wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.
- (2) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of (a) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:
- a. Begun, or caused to begin, as part of a continuous onsite construction program:
 - i. Any placement, assembly, or installation of facilities or equipment; or
 - ii. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities that is necessary for the placement, assembly, or installation of New Source facilities or equipment; or
 - b. Entered into a binding contractual obligation for the purchase of facilities or equipment, which are intended to be used in its operation within a reasonable time. Options to purchase agreements or contracts, which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Non-Discharging Categorical Industrial User (NDCIU). Any Person that generates Wastewater subject to a Categorical Pretreatment Standard that does not Discharge ~~those~~ ~~[that]~~ Wastewaters subject to the Categorical Pretreatment Standard to the POTW. NDCIUs are considered a potential source of Indirect Discharge.

Non-Discharging Minor Industrial User (NDMIU). Any Person that stores, handles, or manages volumes of liquid or sludge that is not discharged to the POTW. NDMIUs are considered a potential source of Indirect Discharge.

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. Non-Contact Cooling Water may contain protective additives which may be deleterious to the POTW.

Non-Domestic Wastewater. Wastewater that is not Domestic Wastewater.

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

Non-Domestic User. Any Person that does not qualify as a Domestic User and is a source, or potential source, of discharge to the POTW. This includes but is not limited to Food Service Establishments, Auto-related Businesses, Medical Facilities, Commercial or Industrial Facilities, and Warehouses.

Non-Polar FOG. Fats, Oils or Grease (FOG) in water or waste from a petroleum or mineral source as measured using analytical procedures established in 40 CFR 136.

Notice of Application. A public notice of application filed in compliance with WAC 173-216-090.

Oil/Water Separator (OWS). A pretreatment device with a large capacity underground vault installed between a drain serving a nonpolar FOG discharger and the connecting sewer pipe. These vaults are designed with baffles or coalescing plates to trap sediments and retain floating oils. The large capacity of the vault slows down the wastewater, allowing oil to float to the surface and solid material to settle on the bottom. Any customer that is a potential discharger of petroleum-based and/or nonpolar FOG is required to have an OWS.

Operation and Maintenance Manual. A detailed operation and maintenance manual is prepared for an industrial wastewater facility that includes mechanical components before completing the construction. The manual shall contain all components listed in WAC 173-240-150.

Plan Review Authority. The authority granted to the Control Authority to review and approve all engineering reports, plans, and specifications for the construction of non-domestic wastewater treatment facilities before construction thereof may begin. No approval shall be given until the Director is satisfied that said plans and specifications and the methods of operation and maintenance submitted are adequate to protect the quality of the state's waters as provided for in RCW 90.48.110.

Plans and Specifications. The detailed drawings and specifications used in the construction or modification of non-domestic wastewater facilities. Except as otherwise allowed, plans and specifications are preceded by an approved engineering report. For some industrial facilities final conceptual drawings for all or parts of the system may be substituted for plans and specifications with the permission of the Director.

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

Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, regardless of form; or their legal representatives, agents, or assignees. This definition includes all federal, State, and local governmental entities.

pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in standard units. pH is an expression of the intensity of the alkaline or acid condition of a liquid. The pH may range from 0 to 14, where 0 is most acid and 14 most alkaline.

Pollutant. Any substance, either liquid, gaseous, solid or radioactive, discharged to the POTW which, if discharged directly, would alter the chemical, physical, thermal, biological or radiological properties of waters of the State. This includes any Discharge likely to create a nuisance or render such waters harmful, detrimental or injurious to any beneficial uses, terrestrial or aquatic life, or to public health, safety or welfare, and includes any dredged spoil, solid waste, incinerator residue, filter backwash, Sewage, garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials,

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

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).

Pretreatment. The reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of Pollutant properties in Wastewater prior to, or in lieu of, introducing such Pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; BMP or by other means, except not by diluting the concentration of the Pollutants unless allowed by an applicable Pretreatment Standard.

Pretreatment Facility. Wastewater treatment equipment, unit, device, facility, or portions thereof designed for providing Pretreatment of Wastewater.

Pretreatment Requirement. Any substantive or procedural requirement related to Pretreatment imposed on a Non-Domestic User, other than a Pretreatment Standard.

Pretreatment Standard or Standard. A Discharge prohibition (SMC 13.18.300), Categorical Pretreatment Standard (SMC 13.18.310), State Pretreatment Standard (SMC 13.18.320), Local Limit (SMC 13.18.330), and site-specific limit based on potential detrimental effects to the POTW, health and safety of staff and general public.

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 Control Authority, or a Contributing Jurisdiction. 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.

RV (Recreational Vehicle) Waste. Liquid removed from waste holding tanks of recreational vehicles.

Sampling Facility. ~~Flow, instantaneous temp, pH, composite.~~ A structure or sampling installation for the purpose of accurately measuring the volume or flow and sampling of wastewater; the design, location and operation of which must be approved by the Director.

Septage. Sewage and typically associated solids from domestic activities pumped from a septic tank serving one or more private residences, including wastes from chemical toilets, campers, or trailers.

Sewage. Human excrement and gray water from household showers, toilets, kitchens, clothes and dish washing, and related Domestic User activities.

Significant Industrial User or SIU:

- i. Except as provided in paragraph (ii) of this definition, a Significant Industrial User is:
 1. A Non-Domestic User subject to Categorical Pretreatment Standards; or
 2. A Non-Domestic User that:
 - a. Discharges an average of twenty-five thousand (25,000) gpd or more of process Wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blowdown Wastewater);

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

- b. Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the Treatment Plant; or
 - c. Is designated as such by the Director, on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement.
- ii. Upon a finding that a Non-Domestic User meeting the above criteria for a Significant Industrial User is not a Categorical Industrial User, or is a Non-Discharging Categorical Industrial User, and has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement, the Director may at any time, on its own initiative or in response to a petition received from a Non-Domestic User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such Non-Domestic User should not be considered a Significant Industrial User.

Significant Non-Compliance. The term Significant Non-Compliance means:

- (1) Any violation of a Pretreatment Standard or requirement including numerical limits, narrative Standards, and prohibitions, that the Director determines has caused, alone or in combination with other Discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public.
- (2) Any Discharge that has caused imminent endangerment to the public or to the environment or has resulted in the Director's exercise of its emergency authority to halt or prevent such a Discharge.
- (3) Any violation(s), including of Best Management Practices, which the Director determines will adversely affect the operation or implementation of the local Pretreatment Program.
- (4) Chronic violations of Wastewater Discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for the same Pollutant parameter taken during a rolling six (6) month period exceed, by any magnitude, a numeric Pretreatment Standard or requirement, including Instantaneous Limits of SMC 13.18.330.
- (5) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of Wastewater measurements taken for each Pollutant parameter during a rolling six (6) month period equal or exceed the product of the numeric Pretreatment Standard or requirement, (including Instantaneous Limits, as defined by SMC 13.18.330, multiplied by the applicable criteria. Applicable criteria are 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other Pollutants except pH.

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

- (6) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a Wastewater Discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance.
- (7) Failure to provide any required report within forty-five (45) days after the due date. This includes initial and periodic monitoring reports, and reports on initial compliance and on meeting compliance schedules.
- (8) Failure to accurately report non-compliance.

Slug Load or Slug Discharge. Any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or permit conditions. This includes Discharges at a flow rate or concentration which could cause a violation of the prohibited Discharge Standards of SMC 13.18.300 of these Pretreatment Regulations.

Standard. Is the same as Pretreatment Standard.

Standard Method. The current version of Standard Methods for Examination of Water and Wastewater.

State. The State of Washington.

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

Total Suspended Solids (TSS). The total suspended matter that floats on the surface of, or is suspended in, water, Wastewater, or other liquid, and which is removable by laboratory filtering, as included in current EPA standard methods for the examination of water and wastewater.

Wastewater. Any combination of 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.

Wastewater Treatment Facility. That portion of the POTW which is designed to provide treatment of municipal Sewage and Industrial Waste.

Section 3. General Sewer Use Requirements

13.18.300 Prohibited Discharges Standards.

A. General Prohibitions. No Domestic or Non-Domestic 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 Non-Domestic Users and Domestic Users of the POTW whether or not they are subject to Categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Pretreatment Requirements.

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

B. Specific Prohibitions. No Domestic or Non-Domestic User shall introduce or cause to be introduced into the POTW any of 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 Part 261.21, and Wastewater causing any single reading over ten percent (10%) of the lower explosive limit based on an explosivity meter reading at the point of Discharge into the POTW or at any point in the POTW.
- (2) Gasoline, kerosene, naphthalene, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromides, carbides, hydrides, sulfides, and any other substance that the Control Authority, the State, or the EPA has notified the Non-Domestic User is a fire hazard or hazard to the POTW.
- (3) Wastewater having a pH less than 6.0 or more than 9.0, 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 Director pursuant to a finding that the system is specifically designed to accommodate a Discharge of that pH.
- (4) Solid or viscous substances in amounts which may cause obstruction to the flow in the sanitary sewer or other Interference with the operation of the sanitary sewer system or POTW. In no case shall solids greater than 1/4 inch (0.64 cm) in any dimension be discharged. Specifically prohibited substances in amounts that produce Interference include, but are not limited to: grease, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.
- (5) 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.
- (6) Wastewater having a temperature which will interfere with the biological activity in the POTW, has detrimental effects on the collection system, or prevents entry into the sanitary sewer. In no case shall Wastewater be discharged which exceeds 140 degrees F (60 degrees C), or causes the Wastewater temperature at the influent to the Treatment Plant to exceed 104 degrees F (40 degrees C).
- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute or chronic worker health and safety problems.
- (8) Septage other than RV Waste discharged at an approved location.
- (9) Trucked or hauled Pollutants, except at Discharge points designated by the Director and when specifically, and expressly approved by the Director.
- (10) The following are prohibited unless approved in writing by the Director under extraordinary circumstances, such as lack of direct Discharge alternatives due to combined sewer service or need to augment Sewage flows due to septic conditions (as required under WAC 173-216-060):

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

- a. Non-Contact Cooling Water in significant volumes;
 - b. Storm Water, 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 POTW; and
 - d. Surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, and unpolluted water, unless specifically authorized by the Director.
- (11) 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 sanitary sewers for maintenance or repair.
- (12) Chlorine, bleach or other oxidants in quantities that cause Interference to the POTW.
- (13) 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 WWTF's effluent.
- (14) Wastewater containing any radioactive wastes or isotopes except as specifically approved by the Director, and in compliance with applicable Federal or State regulations.
- (15) Sludges, screenings, or other residues from the Pretreatment of Industrial Wastes.
- (16) Medical Wastes, except as specifically authorized by the Director.
- (17) Wastewater causing, alone or in conjunction with other sources, the WWTF's effluent to fail a toxicity test.
- (18) Detergents, surface-active agents, or other substances in amounts that may cause excessive foaming in the POTW.
- (19) Any fats, oils, or greases, including but not limited to petroleum oil, nonbiodegradable cutting oil, or products of mineral oil, animal or vegetable origin in amounts that may cause obstructions or maintenance problems in the POTW.
- (20) Total Petroleum Hydrocarbon (non-polar oil and grease) concentrations 100 parts per million, by weight, of fats, oil, greases, wax, whether emulsified or not, or containing substances which may solidify or become viscous at temperatures between 32° and 150° Fahrenheit.
- (21) Any substance which will cause the WWTF to violate its NPDES and/or other disposal system permit(s).
- (22) Any dangerous, extremely hazardous, or hazardous wastes as defined in rules or regulations published by Ecology or by EPA, except as specifically approved by the Director.
- (23) Any persistent pesticide and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA) as amended.
- (24) Any Wastewater containing toxic Pollutants in sufficient quantity, either singly or by interaction, to injure or create Interference with any Wastewater treatment process, constitute

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

a hazard to humans or animals, or to exceed the limitation set forth in Categorical Pretreatment Standards, or State or local Pretreatment Standards.

- (25) Any substance which may cause the WWTF's effluent or treatment residues, sludges, or scums, to be unsuitable for reclamation and reuse or which causes Interference with the reclamation process. In no case shall a substance be discharged to the POTW that will cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; or with any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act; or with the Clean Air Act, the Toxic Substances Control Act, or State Pretreatment Standards applicable to the sludge management method being used.
- (26) Any Slug Load, or any Pollutant, including oxygen demanding Pollutants, released in a single extraordinary Discharge episode or in such volume or strength as to cause Interference to the POTW; or released with a flow rate exceeding the permitted peak flow, or ten percent (10%) of the capacity of the available trunk sewer, whichever is greater.
- (27) Wastewater that may cause a measurable or detectable decrease in WWTF effluent Ultraviolet Transmittance.
- (28) Antifreeze or a coolant solution used in a vehicle or motorized equipment, except as specifically approved by the Director.
- (29) An enzyme, chemical, or other agent that allows fat, oil, grease, or a solid to Pass Through a Pretreatment Facility.
- (30) Wastewater that contains, or has contained, glutaraldehyde or ortho-phthalaldehyde unless it has been completely de-activated with sodium bisulfite or sodium hydroxide, has a pH of between 6.0 and 9.0 standard units, and does not contain any drain clogging solids. The Non-Domestic User shall contact the Director for review and obtain approval prior to Discharge.
- (31) Backwash generated from filtration of process water or non-domestic wastewater.
- (32) All other wastes found by the Director to be harmful to the POTW.

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

13.18.310 National Categorical Pretreatment Standards

The Categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated by reference.

- A. Where a Categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a Pollutant in Wastewater, the Director may impose equivalent concentration or mass limits in accordance with SMC 13.18.310(E) and SMC 13.18.310(F) and 40 CFR Part 403.6(c).

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

- B. Upon promulgation of a Federal Categorical Pretreatment Standards for a particular industrial subcategory, the Federal standard, if more stringent, shall supersede the Local Limit imposed in these Pretreatment Regulations. If the Local Limit imposed in these Pretreatment Regulations is more stringent than the Federal standard, then the Local Limit shall supersede the Federal limit.
- C. When Categorical Pretreatment Standards are expressed in terms of a mass of Pollutant which may be discharged per unit of production, the Director may either impose limits based on mass or equivalent effluent concentrations. The Non-Domestic User must supply appropriate actual or projected long-term production rates for the unit of production specified in order to facilitate this process pursuant to 40 Part CFR 403.6(c)(2).
- D. The Director may allow Wastewater subject to a Categorical Pretreatment Standard to be mixed with other Wastewaters prior to treatment. In such cases, the Non-Domestic User shall identify all categorical wastestreams and provide sufficient information on each non-categorical wastestream to determine whether it should be considered dilute for each Pollutant. Absent information showing that non-categorical wastestreams contain the Pollutant in question at levels above that of the supply water, such wastestreams shall be considered dilute. In such situations, the Director shall apply the combined wastestream formula as found at 40 CFR Part 403.6(e) to determine appropriate limits.
- E. When a Categorical Pretreatment Standard is expressed only in terms of Pollutant concentrations, a Non-Domestic User may request that the limits be converted to equivalent mass limits. The Director may establish equivalent mass limits if the Non-Domestic User meets all of the conditions set forth below.
 - 1. To be eligible for equivalent mass limits, the Non-Domestic 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 is 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; and
 - g. Shows the daily and Monthly Average Pollutant allocations currently provided based on the proposed unit of production.
 - 2. A Non-Domestic 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;

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

- 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 Director if production rates are expected to vary by more than twenty (20) percent from the baseline production rates submitted according to SMC 13.18.310(E)(1)(d). The Director may reassess and revise equivalent limits as necessary to reflect changed conditions; and
 - e. Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to SMC 13.18.310(E)(1)(b) so long as it Discharges under an equivalent mass limit.
- 3. Equivalent mass limits:
 - a. Will not exceed the product of the actual average daily flow from regulated process(es) of the Non-Domestic User and the applicable concentration-based daily maximum and Monthly Average standards (and the appropriate unit conversion factor);
 - b. May be reassessed and the permit revised upon notification of a revised production rate, as necessary to reflect changed conditions at the facility; and
 - c. May be retained in subsequent permits if the Non-Domestic Users' production basis and other information submitted in SMC 13.18.310(E)(1) is verified in their reapplication. The Non-Domestic User must also be in compliance with SMC 13.18.1420 regarding the prohibition of Bypass.
- F. The Director 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 Non-Domestic Users. In such cases, the Director will document the basis and the determination that dilution is not being substituted for treatment in the permit fact sheet.
- G. The Control Authority 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.
- H. Once incorporated into its permit, the Non-Domestic User must comply with the equivalent limits in lieu of the Categorical Pretreatment Standards from which they were derived.
- I. The same production and flow estimates shall be used in calculating equivalent limits for the monthly (or multiple day average) and the maximum day.
- J. Non-Domestic Users subject to permits with equivalent mass or concentration limits calculated from a production-based standard shall notify the Director if production will significantly change. This notification is required within two (2) business days after the Non-Domestic User has a reasonable basis to know that production will significantly change in the next calendar month. Non-Domestic Users who fail to notify the Director of such anticipated changes must meet the more stringent of the equivalent limits or the Non-Domestic User's prior limits.

13.18.320 State Pretreatment Standards

State Pretreatment Standards and requirements, located at WAC Chapter 173-216, were developed under authority of the State Water Pollution Control Act, RCW Chapter 90.48 and are hereby incorporated by reference. The version incorporated is the version current as of the date of the latest revision or version of these Regulations. All waste materials discharged from a commercial or industrial operation into the POTW must satisfy the provisions of WAC Chapter 173-216. In addition to more stringent prohibitions, the provisions described in SMC 13.18.320(A) through 13.18.320(J) are unique to the State and are required by these Regulations 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, WAC Chapter 173-240. Non-Domestic Users shall request approval for such plans through the Director. Prior to constructing or modifying Wastewater treatment facilities, plans and reports as required by WAC Chapter 173-240 must be approved by the Director.
- B. Non-Domestic Users shall apply to the Director for a permit at least one hundred twenty (120) days prior to the intended Discharge of any Pollutants (SMC 13.18.530) other than Sewage or Wastewater which the Director has determined is similar in character and strength to normal domestic Wastewater with no potential to adversely affect the POTW.
- C. All Significant Industrial Users must apply for and obtain a Wastewater Discharge permit prior to Discharge.
- D. All Non-Domestic Users shall apply AKART to waste Discharges to the waters of the State.
- E. Discharge restrictions of WAC Chapter 173-303 (Dangerous Waste) shall apply to all Domestic and Non-Domestic Users. Specific written approval from the Control Authority and Ecology is required prior to the Discharge of Dangerous Wastes.
- 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, RCW Chapter 42.56, WAC Chapter 173-03, 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 Director. 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 has been reached with respect to allowing the Discharge;

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

- (4) The address and phone number of the office of the Director where Persons can obtain additional information;
 - (5) The dates of the comment period (which shall be at least 30 days); and
 - (6) How and where to submit comments or have any other input into the permitting process, including requesting a public hearing.
- H. The Director 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 Director determines there is sufficient public interest the Control Authority or Contributing Jurisdiction, as appropriate, shall hold a public meeting following the rules of WAC 173-216-100. The Director may assume responsibility for public notice requirements for any Person and may waive this requirement for any Non-Domestic User not classified as a CIU, SIU, or MIU by the Director.
- I. Permit terms shall include, wherever applicable, the requirement to apply AKART.
- J. All required monitoring data shall be analyzed by a laboratory registered or accredited under the provisions of WAC Chapter 173-50, 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.

13.18.330 Local Limits

- A. The Control Authority has established and may periodically modify Local Limits pursuant to 40 CFR Part 403.5(c) based upon the POTW's site-specific flow and loading capacities, receiving water considerations, and reasonable treatment expectations for non-domestic Wastewater using a method approved by the Director.
- B. Unless the Director determines that public health or safety require an earlier implementation, any modification the Control Authority establishes to the Local Limits in Table 330-1 shall not go into effect until thirty (30) days after reasonable notice of the changes have been provided to the public and Persons known to the Control Authority or Contributing Jurisdiction who may Discharge Wastewater containing analytes subject to such Local Limits.
- C. The Pollutant limits in Table 330-1 are established to protect against Pass Through and Interference and reflect the application of reasonable treatment technology. No Non-Domestic User shall Discharge Wastewater in excess of the Daily Maximum Limits shown in Table 330-1 unless authorized in writing by the Director.
- D. The Local Limits shown in Table 330-1 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 Director may impose mass limits in addition to, or in place of, concentration-based limits in accordance with SMC 13.18.310.
- E. Significant Industrial Users and Categorical Industrial Users shall also be subject to Instantaneous Limits (as determined by a Grab Sample) equal to twice the daily maximum

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

concentration limit identified in Table 330-1 for any Pollutant for which a Composite Sample is required in a permit. This provision is not applicable to SIUs and CIUs without the permit requirement to collect a Composite Sample for the analyte in question.

Table 330-1: Initial ~~DRAFT~~ Local Limits (Subject to Director Modification)

Analyte	Daily Maximum Concentration Limit (mg/L)	Instantaneous Concentration Limit (mg/L)
Arsenic	0.14	0.28
Aluminum	TBD	TBD
Cadmium	0.12	0.24
Chromium	4.05	5.0
Copper	1.42	2.84
Cyanide	0.19	0.38
Lead	0.80	1.60
Mercury	0.030	.060
Molybdenum	0.17	0.34
Nickel	0.83	1.66
Selenium	0.21	0.42
Silver	0.54	1.08
Zinc	1.93	3.86

- F. No Non-Domestic User shall Discharge Wastewater in excess of the Daily Maximum Limits shown in Table 330-2 unless authorized in writing by the Director. The standard limits in Table 330-2 apply at the point where the Wastewater is discharged to the POTW.

Table 330-2: Standard Limits

Analyte	Daily Maximum Concentration Limit
Total Hydrocarbon based fats, oil and grease	100 mg/L
Minimum pH	6.0 standard units

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

Analyte	Daily Maximum Concentration Limit
Maximum pH	9.0 standard units
Ammonia	30 mg/L
BOD	300 mg/L
TSS	300 mg/L

- G. A High Strength User is any Non-Domestic User who, in any given month, discharges Wastewater found to contain a Monthly Average of more than fifty (50) pounds per day of Biochemical Oxygen Demand and fifty (50) pounds per day of Total Suspended Solids. High Strength Users shall be subject to charges as determined by the Director and as amended and under the authority of these Regulations up to any maximum loading limit.
- H. The Control Authority shall use the individual permit process to establish ceiling limits for compatible Pollutants and appropriate Discharge limits for all other Pollutants not listed in SMC 13.18.330. This includes Pollutants subject to regulation under RCRA, volatile or semi-volatile organic compounds, halogenated or brominated compounds, poly-aromatic hydrocarbons, polymers, surfactants, pesticide active ingredients, PFOS/PFOA, 6PPD – quinone and any other Pollutant identified by the Control Authority.
- I. The Director may establish and require Best Management Practices for any category of Non-Domestic 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 in SMC 13.18.330. 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.
- J. Where a Non-Domestic User is subject to a Categorical Pretreatment Standard and a Local Limit for a given Pollutant, the more stringent provision shall control.

13.18.340 Right of Revision

The Control Authority reserves the right to establish, by subsequent resolution or regulation, or in Wastewater Discharge permits or other Control Documents, more stringent standards, or requirements for any Discharges to the POTW.

13.18.350 Dilution

No Non-Domestic User shall ever increase the use of process water, or in any way attempt to dilute a Discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a Discharge limit unless expressly authorized by an applicable Pretreatment Standard or requirement. The Director may

impose mass limitations on Non-Domestic 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.

Section 4. Pretreatment of Wastewater

13.18.400 Pretreatment Facilities

Non-Domestic Users shall provide Wastewater Pretreatment as necessary to comply with these Regulations and shall achieve compliance with the Pretreatment Standards set out in these Regulations within the time limitations specified by EPA, the State, or the Control Authority, whichever is more stringent. Any Pretreatment Facilities necessary for compliance shall be provided, operated, and maintained at the Non-Domestic User's expense, and satisfy State requirements for review and approval of Plans for Wastewater Facilities as described in SMC 13.18.320. Such plans (Engineering Report, Plans and Specifications, and Operation and Maintenance Manuals) shall be submitted [as required by WAC Chapter 173-240] to the Director for review and approval prior to construction. The review of such plans and operating procedures shall in no way relieve the Non-Domestic User from the responsibility of modifying such Pretreatment Facilities as necessary to produce a Discharge acceptable to the Director under the provisions of these Pretreatment Regulations.

13.18.410 Additional Pretreatment Measures

- A. The Director may immediately and effectively halt or prevent any Discharge of Pollutants to the POTW which reasonably appear to present an imminent endangerment to the health or welfare of POTW staff or general public. In such cases, the Director will provide the User advance notice if possible but shall not delay a response to imminent endangerment.
- B. The Director may halt or prevent any Discharge to the POTW which presents or may present an endangerment to the environment, or which threatens to interfere with the operation of the POTW. In such cases, the Director shall attempt to provide not only notice to the affected Non-Domestic User(s), but the opportunity to respond.
- C. Any Non-Domestic User causing the Director to exercise the emergency authorities provided for under SMC 13.18.410(A) and SMC 13.18.410(B) shall be responsible for reimbursement of all related costs to the Control Authority or Contributing Jurisdiction, as appropriate.
- D. The Director may require Non-Domestic Users to reduce or curtail certain Discharges to the POTW, designate that certain Wastewater be discharged only into specific sewers, relocate and/or consolidate points of Discharge, separate Sewage waste streams from Industrial Waste streams, and take all other measures to protect the POTW and determine the Non-Domestic User's compliance with the requirements of these Pretreatment Regulations.
- E. The Director, based on the determination that such facilities or devices are necessary for implementation of Pretreatment Requirements, may require any Non-Domestic User to

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

install and maintain, on their property and at their expense, Pretreatment Facilities, devices and equipment that may include, but not be limited to, any of the following:

1. A sampling facility or sampling manhole, whichever the Director deems appropriate, accessible to the Control Authority or Contributing Jurisdiction;
2. A suitable storage and/or flow equalization tank with representative sampling capabilities;
3. A Grease Interceptor, Grease Trap, Solids Separator, or Oil/Water Separator;
4. An approved hazardous gas detection meter;
5. An amalgam separator and/or a silver recovery unit; or
6. Other Pretreatment Facilities, devices, equipment, and/or units as may be necessary to treat Non-Domestic Wastewater prior to entering the POTW.

Non-domestic Users installing any Pretreatment Facility or device shall ensure they are of the type and capacity approved by the Director and conform to any separate requirements established by the Control Authority or Contributing Jurisdiction, as appropriate. Users shall locate Pretreatment Facilities or devices in areas easily accessible for cleaning and inspection by representatives of the Director. Non-Domestic Users shall maintain Pretreatment Facilities or devices at all times to provide acceptable treatment of Wastewater and to maintain compliance with Pretreatment Standards and requirements. Non-Domestic Users are responsible for all periodic inspection, cleaning, maintenance, and repair of such facilities.

- F. **Food Service Establishment.** Non-Domestic Users who prepare and/or serve food or otherwise have potential to Discharge fats, oils, or grease into the POTW shall be required to install Grease Interceptors located outside the building. The Director may approve the installation of Grease Traps inside the building on a case-by-case basis under extraordinary circumstances. Non-Domestic Users may be required to retrofit Grease Interceptors that were constructed prior to the adoption of these Regulations.
- G. **GI Design.** GIs shall be designed, sized, constructed, and installed in accordance with Control Authority or Contributing Jurisdiction standards and the Uniform Plumbing Code (UPC). All fixtures, equipment, and drain lines located in a facility's food preparation and cleanup areas shall be connected to a GI, unless specifically approved by the Director. The following types of equipment or fixtures have been identified as potential sources of fats, oils and grease and shall be connected to a GI: pre-rinse and/or pre-wash sinks or sinks in dishwashing areas; two or three compartment sinks; wok stoves; self-cleaning stove ventilation/exhaust hood; kitchen floor drains; floor drains; floor sinks; mop sinks; food prep sinks; and hand sinks. Dishwashers may only be directed to GIs per Director or manufacturer instructions. Dishwashers or other fixtures discharging emulsifying agents, such as detergents, shall be located such that their potential to adversely impact the GI operation is minimized. All drain lines shall have permanently fixed screens with maximum 1/4-inch openings to prevent the pass-through of larger solids. Commercial food grinders and garbage disposals are not allowed. No sanitary waste shall be conveyed to the GI. A monitoring manhole shall be included on all GI installations.
- H. **GI Installation.** GIs shall be installed such that they are easily accessible for inspection, cleaning, and the removal of fats, oils, grease and solid material. An accessible GI shall meet the following minimum criteria: the edge of the GI shall be flush with any edge of an overhead obstruction; and the overhead clearance shall be at least equal to the overall

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

depth of the GI. GI access covers should be located such that the influent and effluent sanitary tee and compartment walls are accessible at all times for proper cleaning and inspection.

- I. **Cleaning and Maintenance.** The Director shall be authorized to establish routine maintenance schedules of Pretreatment Facilities or devices for the purpose of inspection, maintaining effective treatment and Pollutant removal, and reducing Pollutant loadings to the POTW. The Control Authority or Contributing Jurisdiction shall be allowed access to Pretreatment Facilities or devices for the purpose of inspection and/or to verify compliance with these Regulations. Waste removed from a Pretreatment Facility or device shall not be disposed of in the POTW. A record of cleaning, maintenance or disposal activities shall be submitted to the Director. The use of hot water, enzymes, bacteria, chemicals, or other agents for the purpose of causing the contents of a Pretreatment Facility or device to be discharged into the POTW is prohibited.

13.18.420 Accidental Discharge/Slug Discharge Control Plans

The Director may require any Non-Domestic User to develop and implement an Accidental Discharge/Slug Discharge Control Plan and take other actions the Director believes are necessary to control Discharges which may be caused by spills or periodic non-routine activities. 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 POTW;
- C. The procedures for immediately notifying the Director of any accidental Discharge or Slug Discharge, as required by SMC 13.18.750; 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.

Non-Domestic Users shall notify the Director immediately upon the occurrence of any accidental Discharge or Slug Discharge of substances regulated by these Regulations. The notification shall include location of Discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any Non-Domestic User that has an accidental Discharge or Slug Discharge shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed on the Control Authority or Contributing Jurisdiction on account thereof under these Regulation, State or Federal law.

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

Within five (5) days following an accidental Discharge, the Non-Domestic User shall submit to the Director a detailed written report describing the cause of the Discharge and the measures to be taken by the Non-Domestic User to prevent similar future occurrences. Such notification shall not relieve the Non-Domestic User of any expense, loss, damage, or other liability that may be incurred as a result of damage to the POTW, fish kills, or any other damage to Person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability that may be imposed under these Regulations or other applicable law.

13.18.430 Hauled Wastewater

- A. Certain non-domestic wastes may be introduced into the POTW at locations designated by the Director, and at such times as are established by the Control Authority. No Septage may be discharged to the POTW. The hauler of approved wastes shall be responsible for ensuring ~~such~~ that ~~such~~ wastes comply with all discharge prohibitions in SMC 13.18.2300 through SMC 13.18.2340 and other applicable control authority or contributing jurisdiction requirements. Waste Haulers are required to obtain Wastewater Discharge permits, other Control Documents, and/or provide a manifest at the time of Discharge identifying the customer name, address, volume, and other information from each customer.
- B. Fees for the Discharge of hauled waste may be established as part of the fee system as authorized in SMC 13.18.1700 and SMC 13.18.1710 as amended.
- C. Haulers proposing to Discharge site remediation Wastewater shall comply with applicable Pretreatment Standards and requirements of these Regulations and policies and guidelines as established by the Control Authority. Haulers proposing to Discharge site remediation Wastewater may be subject to fees based upon volume, treatability, handling, and administration.
- D. The Director shall require the hauler, and may also require the generator, of non-domestic waste to obtain a Wastewater Discharge permit or other Control Document. The Director may also prohibit the disposal of any or all hauled Industrial Waste. The Discharge of hauled Industrial Waste is subject to all applicable Pretreatment Standards and requirements of these Pretreatment Regulations and policies and guidelines as established by the Control Authority.
- E. Industrial Waste haulers may Discharge loads only at locations designated by the Director and with the prior consent of the Director. The Control Authority may collect, or require the hauler to collect, samples of each hauled load to ensure compliance with applicable Standards, and halt the Discharge at any point in order to take or require additional samples or hold the load pending analysis. The Director may require the Industrial Waste hauler to provide a waste analysis of any load prior to Discharge, to characterize the waste, or to certify that the waste does not meet the definition of a hazardous waste under WAC Chapter 173-303.
- F. Industrial Waste haulers are required to provide a waste-tracking form for each load, unless exempted in writing by the Director. The waste-tracking form may be required to include the following information:

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

1. Name and address of the Industrial Waste hauler;
2. Truck and driver identification;
3. Names and addresses of the sources of waste;
4. Type of industry, volume, brief description, known characteristics and presumed constituents of waste;
5. Any wastes which are designated hazardous wastes under RCRA; and
6. Any other information deemed necessary by the Director.

Section 5. Wastewater Discharge Permits and Control Documents

13.18.500 Industrial User ~~Surveys~~ Screening Form

The Control Authority is obligated under Federal law to identify and locate all possible Non-Domestic Users which might be subject to the Pretreatment Standards, and to identify the character and volume of Pollutants discharged by such Non-Domestic Users. To satisfy this requirement, any possible Non-Domestic User of the POTW must, upon request of the Director, periodically complete an ~~Industrial Non-Domestic~~ User ~~Screening~~ form. Users of the POTW shall fully disclose the information requested and sign the completed form in accordance with SMC 13.18.550. Proper completion of ~~survey Non-Domestic User Screening~~ requirements is a condition of initial and continued Discharge to the POTW. Non-Domestic Users failing to fully comply with ~~survey screening~~ requirements within a timeframe specified by the Director shall be subject to all enforcement measures authorized under these Regulations including termination of service. The Director is authorized to prepare several forms for this purpose and require completion of the particular form which the Director determines appropriate to provide the information needed to categorize each User. The Director shall be authorized to categorize each Non-Domestic User, provide written notice of a Non-Domestic User's categorization and what it means, and revise this categorization at any time.

13.18.510 Wastewater Discharge Permit Requirement

- A. No Significant Industrial User shall Discharge Wastewater into the POTW without first obtaining an individual Wastewater Discharge permit from the Director. A Significant Industrial User or Non-Domestic User, that has filed a timely application pursuant to SMC 13.18.520 may continue to Discharge unless and until notified otherwise by the Director.
- B. The Director may require all other Non-Domestic Users to obtain a Wastewater Discharge Permit, Control Document, or implement Best Management Practices as necessary to carry

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

out the requirements or otherwise meet the intent of these Pretreatment Regulations. For example, a Control Document may be required solely for flow equalization or for a NDCIU.

- C. Any failure to complete the required ~~survey~~ Non-Domestic User Screening form, apply for and obtain a required permit or other Control Document, or violate the terms and conditions of a Wastewater Discharge permit or Control Document shall be deemed a violation of these Pretreatment Regulations and subject the Non-Domestic User to the sanctions set out in SMC 13.18.1100 through SMC 13.18.1360. Obtaining a Wastewater Discharge permit or other Control Document does not relieve a Non-Domestic User of its obligation to comply with all Federal and State Pretreatment Standards or requirements or with any other requirements of Federal, State, and local law.

13.18.520 Wastewater Discharge Permitting: Existing Connections

- A. Any Non-Domestic User required to obtain a Wastewater Discharge permit under these Regulations who was discharging wastewater into the POTW prior to the effective date of these Regulations may be required to apply to the Control Authority for a Wastewater Discharge permit in accordance with SMC 13.18.530. In such event, the Non-Domestic User shall not cause or allow Discharges to the POTW to continue two hundred seventy (270) days following the effective date of these Regulations except in accordance with a Wastewater Discharge permit issued by the Director. The timeframes provided in this Section may be extended at the Director's discretion. The Director may authorize Significant Industrial Users that are already permitted by Ecology to continue discharging to the POTW pursuant to such permit by reissuing such permit under a new permit number and cover page identifying the Control Authority as the issuer and administrator of the permit.
- B. Any Non-Domestic User with an existing Wastewater Discharge approval proposing to make a change in an existing waste Discharge, which will substantially change the volume of flow or the characteristics of the waste or establish a new point of Discharge, shall apply for a new Wastewater Discharge approval thirty (30) days prior to making the change. Substantial changes may include, but are not limited to, a twenty-percent (20%) increase in the authorized daily maximum flow, addition of a new process, product, or manufacturing line that will increase or decrease the concentration of Pollutants in the waste stream or require modification in the operation of the pretreatment system, addition of new pretreatment equipment, or alteration of a sample site.

13.18.530 Wastewater Discharge Permitting: New Connections

Persons wishing to Discharge Industrial Wastewater must first complete either a ~~survey~~ Non-Domestic User Screening form (if they do not expect a permit is needed) or a permit application. Any Non-Domestic User identified by the Control Authority through the ~~survey~~ screening as potentially needing a permit must file a permit application. Applications for Wastewater Discharge permits, in accordance with SMC 13.18.540, must be filed at least one hundred twenty (120) days prior to the desired date of Discharge, and the Discharge permit obtained prior to commencing Discharge.

13.18.540 Wastewater Discharge Permit Application Contents

- A. All Non-Domestic Users required to obtain a Wastewater Discharge permit must apply using a form provided by the Control Authority or Contributing Jurisdiction. Non-Domestic Users must supply the following information as part of the permit application if relevant to the Non-Domestic Users operation unless waived by the Director.
1. Identifying information.
 - a. The name and physical address of the facility, the names of the operator/facility manager and owner, and the name and address of the point of contact; and
 - b. A description of activities, facilities, and plant production processes on the premises.
 2. A list of any environmental control permits held by or for the facility.
 3. A description of operations and facilities including:
 - a. A brief description of the operations, average rate of production, and industrial classification (SIC or NAICS codes) of the operation(s) conducted on site;
 - b. The number and type of employees, and proposed or actual hours of operation;
 - c. The type, amount, rate of production, and process used for each product produced;
 - d. The type and amount of raw materials used (average and maximum rates);
 - e. The raw materials and chemicals to be routinely stored at the facility (including products in rail cars and tank trucks located on site);
 - f. The types of wastes generated on a routine and periodic basis;
 - g. The times and durations when wastes will be discharged;
 - h. A schematic process diagram showing each process step, waste stream, treatment step, internal recycle, and point of Discharge to the POTW. This diagram should identify which streams are subject to Categorical Pretreatment Standards;
 - i. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of Discharge;
 - j. The sampling locations and provisions for monitoring Discharges; and
 - k. Copies of plans and reports for Wastewater facilities as required under WAC Chapter 173-240 (Engineering Report, Plans and Specifications, and an Operations and Maintenance Manual).

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

4. Flow data: The average daily and maximum daily flow, in gallons per day, to the POTW from each waste stream. Information shall be complete enough to allow use of the combined wastestream formula per SMC 13.18.310(D) and 40 CFR Part 403.6(e) where applicable.
 - a. Significant Industrial Users that are subject to Categorical Pretreatment Standards shall submit information showing the measured average daily flow and maximum daily flow, in gallons per day, to the POTW from each of the following:
 - (i) Regulated or manufacturing process streams; and
 - (ii) Other streams as necessary to allow use of the combined waste stream formula of 40 CFR 403.6(e).
 - b. Significant Industrial Users that are not subject to Categorical Pretreatment Standards shall submit information showing the measured average daily flow and maximum daily flow, in gallons per day, to the POTW from each of the following:
 - (i) Total process flow, Treatment Plant flow, total plant flow, or individual manufacturing process flow as required by the Control Authority. The Director may allow verifiable estimates of these flows where justified by cost or feasibility considerations.
5. Pollutant Data:
 - a. The Categorical Pretreatment Standards applicable to each regulated process;
 - b. The results of sampling and analysis identifying the nature and concentration, (and mass where required by the Standard or the Director), of regulated Pollutants in the Discharge from each regulated process; and
 - c. The estimated peak instantaneous, daily maximum, and long-term average Discharge concentrations (and mass) based on the sampling results.
6. Sampling data to show samples are:
 - a. Representative of daily operations;
 - b. Taken just downstream from Pretreatment Facilities if such exist, or just downstream of the regulated process(es) if no Pretreatment Facilities exist;
 - c. Collected as required by SMC 13.18.800 of these Pretreatment Regulations; and
 - d. Analyzed according to SMC 13.18.790 of these Pretreatment Regulations.

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

7. Information confirming BMPs. Where Standards specify a BMP or pollution prevention alternative, the Non-Domestic User must include the information needed by the Control Authority or the applicable Standard to determine whether BMPs are (or will be) implemented.
 8. Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a Pollutant neither present nor expected to be present in the Discharge must include new sampling data showing (continued) absence of the Pollutant in the raw Wastewater and satisfying SMC 13.18.730(J).
 9. Any other information deemed necessary by the Director to prepare a Discharge permit.
- B. Incomplete or inaccurate applications will not be processed and will be returned to the Non-Domestic User for revision. The Control Authority and the Director shall be held harmless for delays caused by returned applications.

13.18.550 Application and ~~Survey~~ Screening Signatories and Certifications

- A. All Wastewater Discharge permit applications and reports shall be signed by an Authorized Representative of the Non-Domestic User and contain the certification statement in SMC 13.18.830(A).
- B. All ~~survey~~ Non-Domestic User Screening forms shall be signed by an Authorized Representative of the Non-Domestic User and may contain the certification statement in SMC 13.18.830(A).
- C. Non-Domestic Users shall submit a new authorization if the designation of an Authorized Representative of the Non-Domestic User 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 Non-Domestic User must submit the new authorization to the Director prior to or with any reports to be signed by the new Authorized Representative of the Non-Domestic User.

13.18.560 Wastewater Discharge Permit Decisions

After receipt of a complete Wastewater Discharge permit application, the Director will determine whether or not to issue a Wastewater Discharge permit. The Director may deny any application for a Wastewater Discharge permit or require additional safeguards (including the installation of Pretreatment Facilities or plant or process modifications), or reports (including plans under WAC Chapter 173-240), or information as a condition for approval. For Non-Domestic Users not meeting the criteria of Significant Industrial Users, the Director may also waive or defer a permit, or allow Discharges in the interim while a permit is being prepared.

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

As a condition of an approval, the Director may require the Non-Domestic User to install Pretreatment Facilities or make plant or process modifications as deemed necessary by the Director to meet the requirements of these Regulations and applicable Federal and state standards. Such facilities or modifications shall be designed, installed, constructed, operated, and maintained at the Non-Domestic User's expense in accordance with the provisions of these Pretreatment Regulations, and in accordance with the rules and regulations of all local and governmental agencies. If additional pretreatment and/or operation and maintenance will be required to meet the applicable Pretreatment Standards, the Non-Domestic User shall submit a proposed schedule with the shortest feasible timeline, not to exceed 3 years, to be reviewed and approved by the Director, by which the Non-Domestic User will provide such additional pretreatment and/or operation and maintenance. The schedule shall conform to the requirements of SMC 13.18.700(C)(4) of these Pretreatment Regulations. The completion date in this schedule shall not be later than the compliance date established pursuant to SMC 13.18.700(C)(4).

Section 6. Wastewater Discharge Permit Issuance

13.18.600 Wastewater Discharge Permit Duration

The Director may issue a Wastewater Discharge permit for a period of up to five (5) years from its effective date. Each Wastewater Discharge permit will indicate its expiration date.

13.18.610 Wastewater Discharge Permit Contents

Wastewater Discharge permits will include conditions the Director deems reasonably necessary to carry out the goals of the SMC 13.18.010, Federal and State regulations, and the requirements of these Pretreatment Regulations. In addition to the permit information contents below, all permitted Users shall at all times be responsible for the proper operation and maintenance of any facilities or systems of control installed by the Permittee to achieve compliance with the terms of conditions of the permit.

- A. Significant Industrial User and Categorical Industrial User Wastewater Discharge permits will contain the following information:
 - 1. The permit issuance date, expiration date, and effective date;
 - 2. A statement that the Wastewater Discharge permit is nontransferable without prior notification to the Director in accordance with SMC 13.18.640, and provisions for furnishing the new owner or operator with a copy of the existing Wastewater Discharge permit;
 - 3. Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards and requirements to apply AKART (see SMC 13.18.230(I));
 - 4. The Pollutants to be monitored and specific monitoring, record keeping and reporting requirements. This includes the sampling location(s), sampling

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

frequencies, sampling custody records, and sample types consistent with Federal and State law and these Pretreatment Regulations, and the requirement that monitoring data be analyzed by a laboratory registered or accredited under the provisions of WAC Chapter 173-50;

5. Requirements to submit certain reports (as reflected in Section 7 Reporting Requirements), including submittal and approval of plans, reports and manuals as required by WAC Chapter 173-240, and to provide various notifications, keep records, and if required, implement Best Management Practices;
6. The process to be used to request a waiver from monitoring for a Pollutant neither present nor expected to be present in the Discharge in accordance with SMC 13.18.730(J), or a specific waived Pollutant in the case of an individual permit;
7. A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements, any applicable compliance schedule, falsification of reports or tampering with sampling equipment. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law;
8. Requirements to control Slug Discharges, including to develop, update, and implement Slug Discharge control plans (see SMC 13.18.420 for required content) where the Director determines such plans are necessary to prevent accidental, unanticipated, or non-routine Discharges;
9. Any monitoring, which has been conditionally waived by the Director according to SMC 13.18.730(J) but which automatically applies at any time the requirements of the conditional waiver are not met;
10. Requirement for immediate notification to the Director where self-monitoring results indicate noncompliance;
11. Requirement to immediately take action to stop, contain, and cleanup a Bypass, Slug Discharge, or any other unauthorized Discharge, immediately notify the Director, and submit a written report to the Director within 30 days of the occurrence, as required by WAC Chapter 173-216;
12. Requirement to submit permit application for the renewal of a permit at least 60 days prior to expiration of permit;
13. Permit modification requirements, as described in SMC 13.18.630;
14. Permit revocation provisions, as described in SMC 13.18.650.

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

- B. Wastewater Discharge permits may contain, but need not be limited to, the following additional conditions:
1. Pretreatment Facilities and measures required by SMC 13.18.400 and 13.18.410 of these Pretreatment Regulations;
 2. Limits on the average and/or maximum rate of Discharge, time of Discharge, and/or requirements for flow regulation and equalization;
 3. Requirements to install pretreatment technology, pollution controls, or to construct appropriate containment devices to reduce, eliminate, or prevent the introduction of Pollutants into the treatment works, ground, or Storm Water;
 4. Requirements to develop and implement of waste minimization plans to reduce the amount of Pollutants discharged to the POTW;
 5. Requirements to pay charges or fees for Discharge to the POTW including high strength charges;
 6. Requirements to install, maintain, and properly operate inspection, sampling, and Pretreatment Facilities and equipment, including flow measurement devices;
 7. Notice that compliance with the Wastewater Discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the Wastewater Discharge permit; and
 8. Other conditions as deemed appropriate by the Director to ensure compliance with these Pretreatment Regulations, and Federal and State laws, rules, and regulations.
- C. Other Non-Domestic User control mechanisms may contain, as determined by the Director, the information specified in SMC 13.18.540(A) and (B) above.

13.18.620 Permit Issuance Process

- A. Public Notice: Non-Domestic Users shall follow the procedures for public notice found in SMC 13.18.320(G) and SMC 13.18.320(H). The Director shall consider and respond to public input as appropriate prior to issuance of a permit. The Director will arrange a public meeting if properly requested and if there is sufficient public interest, pursuant to WAC 173-216-100.

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

- B. Permit Appeals: Any Person, including the Non-Domestic User, may petition the Director to reconsider the terms of a Wastewater Discharge permit within thirty (30) days of the date of its issuance.
1. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
 2. In its petition, the appealing party must indicate the Wastewater Discharge permit provisions objected to, the reasons for this objection, and the alternative condition(s), if any, it seeks to place in the Wastewater Discharge permit.
 3. The effectiveness of the Wastewater Discharge permit shall not be stayed pending the appeal.
 4. If the Director fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a Wastewater Discharge permit, not to issue a Wastewater Discharge permit, or not to modify a Wastewater Discharge permit shall be considered final administrative actions for purposes of judicial review.
 5. Aggrieved parties seeking judicial review of the final administrative Wastewater Discharge permit decision must do so by filing a complaint with the Superior Court of Pierce County within thirty (30) days of final agency action and properly served upon the Control Authority or Contributing Jurisdiction.

13.18.630 Wastewater Discharge Permit Modification

The Director may modify a Wastewater Discharge permit or other Control Document for good cause, including, but not limited to, any of the following reasons:

- A. To incorporate any new or revised Federal, State, or local Pretreatment Standards or requirements including new or revised Local Limits;
- B. To address new or changed operations, processes, production rates, waste streams, or changes in water volume or character;
- C. To reflect conditions at the POTW requiring an authorized Discharge to be reduced or curtailed. Such requirements may be either temporary or permanent;
- D. Based on information that indicates a permitted Discharge poses a threat to POTW or staff, the receiving waters, or to violate a prohibition of these Pretreatment Regulations;
- E. To address violations of any terms or conditions of the Wastewater Discharge permit;

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

- F. To address misrepresentations or failure to fully disclose all relevant facts in the Wastewater Discharge permit application or in any required report;
- G. To incorporate revisions based on a variance from Categorical Pretreatment Standards approved pursuant to 40 CFR Part 403.13;
- H. To correct typographical or other errors in the Wastewater Discharge permit; or
- I. To reflect a transfer of the facility ownership or operation to a new owner or operator as required under SMC 13.18.640.

13.18.640 Wastewater Discharge Permit Transfer

Wastewater Discharge permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the Director and the Director approves the Wastewater Discharge permit transfer. Failure to provide advance notice of a transfer renders the Wastewater Discharge permit void as of the date of facility transfer. The notice to the Director must include a written certification by the new owner or operator which:

- A. States that the new owner and/or operator have no immediate intent to change the facility's operations and processes;
- B. Identifies the specific date on which the transfer is to occur; and
- C. Acknowledges full responsibility for complying with the existing Wastewater Discharge permit.

Provided that the notice required above occurs and that there were no significant changes to the manufacturing operation or Wastewater Discharge, the new owner will be considered an existing connection per SMC 13.18.520 and be covered by the existing limits and requirements in the previous owner's Discharge approval.

13.18.650 Wastewater Discharge Permit Revocation

The Director may **terminate or** revoke a Wastewater Discharge permit or other Control Document for good cause, including, but not limited to, when a Non-Domestic User has:

- A. Failed to notify the Director of significant changes to the Wastewater prior to the changed Discharge;
- B. Failed to provide prior notification to the Director of changed conditions pursuant to SMC 13.18.740;
- C. Misrepresented or failed to fully disclose all relevant facts in the Wastewater Discharge permit application;

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

- D. Falsified self-monitoring reports or tampered with monitoring equipment;
- E. Refused to allow the Control Authority timely access to the facility premises and records;
- F. Failed to meet effluent limitations or permit conditions;
- G. Failed to pay applicable fines or sewer charges;
- H. Failed to meet compliance schedule deadline dates;
- I. Failed to complete a Wastewater ~~survey~~ Non-Domestic User Screening or Wastewater Discharge permit application;
- J. Failed to provide advance notice of the transfer of business ownership;
- K. Violated any Pretreatment Standard or requirement, or any terms of the Wastewater Discharge permit or these Regulations;
- L. Ceased operations; or
- M. Transferred business ownership.

Prior Wastewater Discharge permits issued to a Non-Domestic User are void upon the effective date of the new Wastewater Discharge permit issued to that Non-Domestic User.

13.18.660 Wastewater Discharge Permit Reissuance

A Non-Domestic User with a Wastewater Discharge permit due to expire shall apply for Wastewater Discharge permit reissuance by submitting a complete permit application, in accordance with SMC 13.18.540, a minimum of one hundred twenty (120) days prior to the expiration of the Non-Domestic User's existing Wastewater Discharge permit. A Non-Domestic User, whose existing permit or Control Document has expired, and has submitted its re-application in the time period specified herein, shall be deemed to have an effective permit or Control Document until the Director issues or denies the new permit or Control Document. The Director may waive the time limit for submittal of a reissuance application, for good cause shown.

Section 7. Reporting Requirements

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

13.18.700 Baseline Monitoring Reports

- A. When Categorical Pretreatment Standards for an industry category are published (promulgated), Non-Domestic Users that perform that process and either currently Discharge or are scheduled to Discharge Wastewater from the process to the POTW, must submit a baseline monitoring report to the Director. This report must contain the information listed in SMC 13.18.700(C). The report is due within one hundred eighty (180) days after the effective date of a Categorical Pretreatment Standard, unless the final administrative decision on a category determination comes later.
- B. Non-Domestic Users that wish to begin discharging Wastewater to the POTW from operations subject to Categorical Pretreatment Standards after EPA has published the Standards (called New Sources), shall submit a baseline monitoring report to the Director containing the information listed in SMC 13.18.700(C). However, for New Sources, the report must be provided at least one hundred twenty (120) days before desiring to Discharge. New Sources shall describe the method of pretreatment they intend to use to meet applicable Categorical Pretreatment Standards. Because monitoring data will not be available for proposed facilities, New Sources instead must provide estimates of the anticipated flow rates and quantity of Pollutants to be discharged.
- C. The baseline monitoring report shall include the following information:
 - 1. All information required in SMC 13.18.540(A)(1) through (A)(9).
 - 2. Additional conditions for Existing Sources measuring Pollutants.
 - a. Non-Domestic Users shall take a minimum of three representative sample to compile the data for the baseline monitoring report.
 - b. Non-Domestic Users shall take samples immediately downstream from Pretreatment Facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If the Non-Domestic User mixes other Wastewaters with the regulated Wastewater prior to pretreatment, the Non-Domestic User must provide the flows and concentrations necessary to apply the combined wastestream formula of SMC 13.18.310(C) and 40 CFR Part 403.6(e). Where the Non-Domestic User wants an alternate concentration or mass limit, and it is allowed by Federal rules at 40 CFR Part 403.6(e), the User shall propose the adjusted limit and provide supporting data to the Control Authority.
 - c. Sampling and analysis shall be performed in accordance with SMC 13.18.800 (Sample Collection), and SMC 13.18.790 (Analytical Requirements).

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

- d. The Director may allow the report to use only historical data if the data is good enough to allow the evaluation of whether (and which) industrial pretreatment measures are needed.
 - e. The baseline monitoring report shall indicate the time, date, and place of sampling, methods of analysis. The User shall certify that the sampling and analysis presented is representative of normal work cycles and expected Pollutant Discharges to the POTW.
3. Compliance Certification. A statement, reviewed by the Authorized Representative of the Non-Domestic User and certified by a qualified professional experienced in the design, construction, and operation of Pretreatment Facilities indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment steps are required to meet the Pretreatment Standards and requirements.
4. Compliance Schedule. While New Sources must install the treatment required to meet the Pretreatment Standards prior to operation, Existing Sources may be granted a compliance schedule where they must provide additional pretreatment and/or O&M to meet the Pretreatment Standards. In such cases, the Non-Domestic User shall propose the shortest schedule by which they can provide the additional pretreatment and/or O&M. The completion date which the Non-Domestic User proposes in this schedule may not be later than the compliance date established for the applicable Pretreatment Standard. Any compliance schedule authorized pursuant to this Section must also meet the requirements set out in SMC 13.18.710.

Signature and Report Certification. All baseline monitoring reports must be certified in accordance with SMC 13.18.830(A) and signed by an Authorized Representative of the User.

13.18.710 Compliance Schedule Progress Reports

The following conditions shall apply to compliance schedules proposed by Existing Sources according to SMC 13.18.700(C)(4) and incorporated into permits:

- A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the Non-Domestic User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- B. No increment referred to above shall exceed nine (9) months;
- C. The Non-Domestic User shall submit a progress report to the Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and

- D. In no event shall more than nine (9) months elapse between such progress reports to the Director.

13.18.720 Reports on Compliance with Categorical Pretreatment Standards Deadline

Both Existing Sources and New Sources must submit a report on whether compliance has been initially achieved. For Existing Sources, the report is due ninety (90) days after the date applicable Categorical Pretreatment Standards give as the final compliance date. For a New Source, the report is due ninety (90) days after starting to Discharge to the POTW.

In both cases, the report must contain the information described in SMC 13.18.540(A)(3) through SMC 13.18.540(A)(6). For Existing Sources, it must also contain the compliance certification of SMC 13.18.700(C)(3) and, if needed, the compliance schedule described in SMC 13.18.700(C)(4). Non-Domestic Users subject to equivalent mass or concentration limits, as allowed by SMC 13.18.310, must include a reasonable measure of their long term production rate. Other Non-Domestic Users subject to Standards based on a unit of production (or other measure of operation) must include their actual production during the sampling period. All compliance reports must be signed and certified in accordance with SMC 13.18.830(A).

13.18.730 Periodic Compliance Reports

- A. The Director may specify the necessary minimum sampling and reporting frequencies and include applicable requirements in permits. Significant Industrial Users (SIUs) must:
1. Report at least twice a year, in June and December unless otherwise specified;
 2. Report the flows and concentrations for the reporting period of regulated Pollutants in all Discharges subject to Pretreatment Standards;
 3. Report average and maximum daily flows for the reporting period and identify where flow estimates are used; and
 4. Include the documentation needed to show compliance with applicable BMPs, pollution prevention alternatives, maintenance, treatment, or record keeping requirements.
- B. Non-Domestic Users must sign and certify all periodic compliance reports in accordance with SMC 13.18.830(A) of these Regulations.
- C. Non-Domestic Users must take Wastewater samples which are representative of their range of Discharge conditions and of any Discharge not disclosed in their permit application. Non-Domestic Users must properly operate, clean, and maintain sampling and flow metering facilities and devices and ensure they function properly. The Director will not allow Non-Domestic User claims that sampling results are unrepresentative due to a Non-Domestic User's failure to meet this requirement, without extenuating circumstances approved by the Director.

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

- D. Non-Domestic Users subject to the reporting requirements in this Section must report any additional monitoring which might determine compliance with permit requirements. This includes any additional monitoring of regulated Pollutant at their respective effluent monitoring locations using procedures prescribed in SMC 13.18.800. In such cases, the results of this monitoring shall be included in periodic monitoring reports.
- E. If a Non-Domestic User sampled and analyzed more frequently than was required by the Director or by these Regulations, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the Discharge during the reporting period.
- F. Any Non-Domestic User subject to equivalent mass or concentration limits established by the Director or by unit production limits specified in the applicable Categorical Pretreatment Standards, shall report production data as outlined in SMC 13.18.310(E).
- G. Zero Discharge Non-Domestic Users shall submit periodic reports as required by the Director stating that no Industrial Wastewater has been discharged to the POTW.
- H. If the Director calculated limits to factor out dilution flows or nonregulated flows, the Non-Domestic User will be responsible for providing flows from the regulated process flows, dilution flows and nonregulated flows.
- I. Flows shall be reported on the basis of actual measurement; however, the Director may accept reports of average and maximum flows estimated by verifiable techniques if the Director determines that an actual measurement is not feasible.
- J. The Director may authorize a Categorical Industrial User to forego sampling of a Pollutant regulated by a Categorical Pretreatment Standard when it is not present in raw Wastewater provided that:
 - 1. The CIU submits a request for the waiver with their permit application or reapplication;
 - 2. The CIU analyzes a sample (or samples) representative of all Wastewater from all processes before any treatment and includes all results with the request;
 - 3. The CIU demonstrates through source water and untreated process water sample results that the Pollutant never exceeds intake water levels. (Pollutants simply reduced by treatment to background levels are ineligible for the waiver.);

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

4. The CIU shows, where non-detectable sample results are returned as provided in subsection (b) or (c) above, that they used the method from 40 CFR Part 136 with the lowest detection level;
 5. The Authorized Representative of the User signs the request using the certification statement;
 6. The CIU includes in routine monitoring reports, a statement certifying that there has been no increase in the Pollutant in its waste stream due to activities of the Industrial User; and
 7. The CIU reports and immediately resumes the monitoring, which would otherwise have been required upon discovering that a waived Pollutant is present or expected to be present based on changes to the User's operations.
- K. The Director will document the reasons supporting the waiver in the permit fact sheet, and keep any information submitted by the Non-Domestic User and the fact sheet for three (3) years after the waiver expires. Monitoring waivers are valid after being incorporated in a Non-Domestic User's permit. The waiver is in effect while the Permit is effective. The Director may cancel a monitoring waiver at any time for cause.

13.18.740 Reports of Changed Conditions

Each Non-Domestic User must notify the Director of any substantial changes to the Non-Domestic User's operations or system which might alter the nature, quality, or volume of its Wastewater. This notification must be made at least thirty (30) days before the desired change and be sent to the Director. In such cases:

- A. The Director may require the User to submit any information needed to evaluate the changed condition. The Director may also require a new or revised Wastewater Discharge permit application under SMC 13.18.540; and
- B. The Director may issue, reissue, or modify a Wastewater Discharge permit applying the procedures of Section 6 of these Regulations in response to a User's notice under this Section.

13.18.750 Reports of Potential Problems

- A. Any Non-Domestic User which has any unusual Discharge that could cause problems to the POTW must immediately notify the Director 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 Non-Domestic 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 Requirements, Pretreatment Standards, or other requirements of Section 3 of these Pretreatment Regulations such as vapor toxicity and explosivity limits.

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

- B. Within five (5) days following such Discharge, the Non-Domestic 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 Non-Domestic 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 Non-Domestic User of any fines, penalties, or other liability which may be imposed pursuant to these Pretreatment Regulations.
- C. Non-Domestic Users required to submit an Accidental Discharge/Slug Discharge Control Plan (per SMC 13.18.420) shall post notice in a prominent location advising employees who to call at the POTW to inform the Director of a potential problem Discharge (SMC 13.18.750(A)). Non-Domestic Users shall ensure that all employees who may cause or witness such a Discharge are advised of the emergency notification procedures.
- D. All Non-Domestic Users must immediately notify the Director of any changes at their facility which might increase their potential for a Slug Discharge. This includes increasing the volume of materials stored or located on site which, if discharged to the POTW, would cause problems. Non-Domestic Users required to prepare an Accidental Discharge/Slug Discharge Control Plan under SMC 13.18.420 shall also modify their plans to include the new conditions prior to, or immediately after making such changes.

13.18.760 Reports of Unpermitted Users

All Non-Domestic Users not required to obtain a Wastewater Discharge permit shall provide appropriate reports to the Director as the Director may require. This may include, but not be limited to, periodically completing, and signing ~~Industrial Non-Domestic User Screening forms~~ ~~Surveys~~, monitoring reports, and reports regarding compliance with Best Management Practices.

13.18.770 Notice of Violation / Repeat Sampling and Reporting

If sampling performed by a Non-Domestic User indicates a violation, the User must notify the Director within twenty-four (24) hours of becoming aware of the violation. The Non-Domestic User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within thirty (30) days after becoming aware of the violation. The Director may waive the repeat sampling requirement where the Control Authority or Contributing Jurisdiction has sampled the effluent for the Pollutant in question prior to the Non-Domestic User obtaining sampling results.

13.18.780 Notification of the Discharge of Hazardous Waste

- A. Any Non-Domestic User that proposes to Discharge any volume of hazardous waste as defined in 40 CFR 261 (listed or characteristic wastes) or dangerous waste as defined WAC Chapter 173-303, or any facility that proposes to Discharge any amount of acutely hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), is required to provide a request in writing to the Director. Discharging such waste without the Director's approval as provided herein is prohibited. The request shall be provided with the initial Wastewater Discharge approval application and repeated with each subsequent reapplication.
- B. Any Non-Domestic User who Discharges any substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261, or WAC Chapter 173-303 must also comply with the following requirements:

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

1. Notify the Director, the EPA Region 10 Office of Air, Waste, and Toxics Director, and State hazardous waste authorities, in writing, of the Discharge. Maintain a copy of this notification and include it in all subsequent permit applications or re-applications under these Pretreatment Regulations.
2. Include the following information in the notification:
 - a. The name of the hazardous waste as found in 40 CFR Part 261;
 - b. The EPA hazardous waste number; and
 - c. The type of Discharge (continuous, batch, or other).
3. If the Discharge totals more than two hundred twenty (220) pounds of hazardous waste in any month, also provide:
 - a. The hazardous constituents contained in the wastes;
 - b. An estimate of the mass and concentration of hazardous constituents in the wastestream discharged during that calendar month; and
 - c. An estimate of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months.
4. This notice shall be repeated for new or increased Discharges of substances subject to this reporting requirement.
5. All notifications must take place prior to discharging a substance for which these reporting requirements apply. If this is not possible, the notice must be provided as soon after Discharge as practical and describe why prior notice was not possible.
6. Non-Domestic Users must provide notifications under this paragraph only once to EPA and the State for each hazardous waste discharged. However, all of the information of these notices shall be repeated in each new permit application submitted under these Pretreatment Regulations.
7. This requirement does not relieve the Non-Domestic User from requirements to provide other notifications, such as of changed conditions under SMC 13.18.540, or applicable permit conditions, permit application requirements, and prohibitions.

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

8. Pollutants that are reported under the reporting requirements for Categorical Industrial Users in baseline monitoring, final and periodic compliance reports are not subject to the notification requirements in this Section.
- C. Non-Domestic 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. Non-Domestic Users must also report any Discharge of acutely hazardous wastes as specified in 40 CFR Parts 261.30(d) and 261.33(e). Subsequent months during which the Non-Domestic User Discharges more of a hazardous waste for which notice has already been provided do not require another notification to EPA or the State but must be reported to the Director.
- D. If new regulations under RCRA describe additional hazardous characteristics or substances as a hazardous waste, the Non-Domestic User must provide notifications under paragraphs A, if required by paragraph B within ninety (90) days of the effective date of such regulations.
- E. For any notification made under this Section, the Non-Domestic 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 these Pretreatment Regulations, a permit issued thereunder, or any applicable Federal or State law.

13.18.790 Analytical Requirements

All Pollutant sampling and analyses required under these Pretreatment Regulations shall conform to the most current version of 40 CFR Part 136, unless otherwise approved by the Director or specified in an applicable Categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for a Pollutant, or the Director determines that the 40 CFR Part 136 sampling and analytical techniques are inconsistent with the goal of the sampling, the Director may specify an analytical method. If neither case applies, Users shall use validated analytical methods or applicable sampling and analytical procedures approved by EPA.

13.18.800 Sample Collection

Non-Domestic Users must ensure all samples they collect to satisfy sampling requirements under these Pretreatment Regulations are representative of the range of conditions occurring during the reporting period. Non-Domestic Users must also ensure that, when specified, samples are collected during the specific period.

- A. Non-Domestic 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. Non-Domestic Users must obtain samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds using Grab Sample collection techniques.

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

- C. For certain Pollutants, Non-Domestic Users may composite multiple Grab Samples taken over a 24hour period. Non-Domestic 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, Non-Domestic Users must employ 24-hour flow-proportional composite samplers unless the Director authorizes or requires an alternative sample collection method.
- E. The Director may authorize Composite Samples for parameters unaffected by the compositing procedures, as appropriate.
- F. The Director 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, Non-Domestic Users must take care to ensure the samples are representative of their Wastewater Discharges.
- H. Non-Domestic Users sampling to complete baseline monitoring and ninety (90) day compliance reports required by SMC 13.18.720 and SMC 13.18.700, must satisfy some specific requirements. These reports require at least four (4) Grab Samples for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. Non-Domestic Users may Composite Samples prior to analysis if allowed in SMC 13.18.800(C). Where historical sampling data exists; the Director may also authorize fewer samples.
- I. For periodic compliance reports, (SMC 13.18.730), the Director may specify the number of Grab Samples necessary to assess and assure compliance with applicable Pretreatment Standards and requirements.
- J. Samples should be taken immediately downstream from Pretreatment Facilities if such exist or immediately downstream from the regulated or manufacturing process if no pretreatment exists or as determined by the Director and/or contained in the Non-Domestic User's Wastewater Discharge permit. For Categorical Industrial Users, if other Wastewaters are mixed with the regulated Wastewater prior to Pretreatment the Non-Domestic User shall measure the flows and concentrations necessary to allow use of the combined waste stream formula of 40 CFR 403.6(e) in order to evaluate compliance with the applicable Categorical Pretreatment Standards. For other SIUs, for which the Director has adjusted its Local Limits to factor out dilution flows, the user shall measure the flows and concentrations necessary to evaluate compliance with the adjusted Pretreatment Standards.
- K. All sample results shall indicate the time, date and place of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected Pollutant Discharges from the user. If a Non-Domestic User sampled and analyzed more frequently than what was required in its Wastewater Discharge approval, using methodologies in 40 CFR Part

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

136, it must submit all results of sampling and analysis of the Discharge as part of its self-monitoring report.

- L. Where a treated regulated process waste stream is combined prior to treatment with Wastewaters other than those generated by the regulated process, the industrial user may monitor either the segregated process waste stream or the combined waste stream for the purpose of determining compliance with applicable Pretreatment Standards. If the industrial user chooses to monitor the segregated process waste stream, it shall apply the applicable Categorical Pretreatment Standard. If the Non-Domestic User chooses to monitor the combined waste stream, it shall apply an alternative Discharge limit calculated using the combined waste stream formula as provided in 40 CFR 403.6(e). The industrial user may change monitoring points only after receiving approval from the Director. The Director shall ensure that any change in an industrial user's monitoring point(s) will not allow the user to substitute dilution for adequate treatment to achieve compliance with applicable requirements.

13.18.810 Date of Receipt of Reports

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

13.18.820 Record Keeping

Non-Domestic Users subject to reporting requirements of these Pretreatment Regulations shall retain the below records for all monitoring required by these Pretreatment Regulations and for any additional monitoring which could be used to satisfy minimum monitoring requirements. Non-Domestic Users must make these records available for inspection and copying at the location of the Discharge. Non-Domestic Users must similarly maintain documentation associated with any Best Management Practices required under authority of SMC 13.18.330(I). Monitoring records shall include at least:

- A. The time, date, and place of sampling;
- B. The sampling and preservation methods used;
- C. The individual taking the sample, and individuals with control of the sample prior to analysis;
- D. The individual performing the analyses and the date the analysis was completed;
- E. The analytical techniques or methods used; and
- F. The results of analysis.

Non-Domestic 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 the State requires use of a

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

certified/accredited laboratory, Users must maintain the scope of accreditation for laboratories performing any analyses for them.

Non-Domestic Users shall maintain the above records for the latest of: at least three (3) years, until any litigation concerning the Non-Domestic User or the Control Authority is complete, or for longer periods when the Non-Domestic User has been specifically notified of a longer retention period by the Director.

13.18.830 Certification Statements

A. The following certification statement must be signed by an Authorized Representative of the Non-Domestic User and included when submitting any of the following:

1. A permit (re)application in accordance with SMC 13.18.550;
2. A baseline monitoring report under SMC 13.18.700;
3. A report on compliance with the Categorical Pretreatment Standard deadlines under SMC 13.18.720; or
4. A periodic compliance report required by SMC 13.18.730(A) through SMC 13.18.730(D).

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

B. Certification of Pollutants Not Present

Non-Domestic Users that have an approved monitoring waiver based on SMC 13.18.730(J) must also include the following certification statement in each report. This statement certifies that there has been no increase in the pollutant in its waste stream due to activities of the Non-Domestic User:

“Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s) in the wastewater due to the activities at the facility since filing of the last periodic report under SMC 13.18.730(A)].

Section 8. Compliance Monitoring

13.18.840 Right of Entry: Inspection and Sampling

The Director shall have the right to enter the premises of any Non-Domestic User to determine whether the Non-Domestic User is complying with all requirements of these Pretreatment Regulations and any Wastewater Discharge permit or order issued hereunder. Non-Domestic Users shall allow the Director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- A. Where a Non-Domestic User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Director will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The Director shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the Non-Domestic User's operations.
- C. Non-Domestic Users shall provide full access to the Director to use any monitoring facilities and utilities available or required in accordance with SMC 13.18.4~~100~~ and SMC 13.18.4~~210~~(E) through (F) to confirm that the Standards or treatment required for Discharge to the POTW are being met.
- D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the Non-Domestic User at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be borne by the User.
- E. Any unreasonable delay in allowing the Director full access to the Non-Domestic User's premises and Wastewater operations shall be a violation of these Pretreatment Regulations.

13.18.850 Search Warrants

The Director may seek issuance of an administrative search warrant from the Superior Court of Pierce County. Such warrants may be secured when:

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

Section 9. Confidentiality Agreement

13.18.900 Confidential Information

Except as provided below, information submitted to demonstrate compliance with Pretreatment Standards and requirements will be available to the public. Non-Domestic Users may have certain information, however, withheld as confidential if the following process is followed.

- A. When a Non-Domestic User submits information to the Director, or provides information to inspectors, Users may request that specific information be maintained as confidential. Non-Domestic Users must promptly identify the specific information in writing, and describe why the release would divulge information, processes, or methods of production entitled to protection as trade secrets or confidential business information under applicable State or Federal laws.
- B. Upon receipt of such statement of confidentiality, the information shall be filed separately and marked that the information shall not be disclosed except as provided for under this Section.
- C. Upon receipt of a public records request for information a Non-Domestic User claims to be exempt from disclosure, the Director shall within five (5) business days of receipt notify the Non-Domestic User of the public disclosure request and inform such User in writing that the information will be disclosed unless the Non-Domestic User obtains a court order directing that the information not be disclosed within no less than ten (10) days of receipt of providing notice of the request to the Non-Domestic User. The Director shall include a copy of the written notification to the Non-Domestic User in the initial response to the public records request required under State law.
- D. Unless the court orders the withholding of the information claimed to be confidential or the information is otherwise determined exempt from disclosure, the Director shall provide such information to the Person making the public records request.
- E. All other information submitted to the Director and obtained from the Director's oversight shall be available to the public subject to applicable City or Contributing Jurisdiction public records policies.
- F. Information held as confidential may not be withheld from governmental agencies for uses related to the NPDES program or Pretreatment Program, or in enforcement proceedings involving the Person furnishing the report.
- G. Federal rules prevent Wastewater constituents and characteristics and other effluent data, as defined by 40 CFR Part 2.302 from being recognized as confidential information.

Section 10. Publication of Users in Significant Non-Compliance

13.18.1000 Publication of Users in Significant Non-Compliance

- A. PUBLISHING: The Director must annually publish a list of the Non-Domestic Users which, at any time during the previous twelve (12) months, were in Significant Non-Compliance with applicable Pretreatment Standards and requirements. The list will be published in a newspaper of

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

general circulation that provides meaningful public notice within the jurisdictions served by the POTW.

B. DEFINITION: The term Significant Non-Compliance means:

1. Any violation of a Pretreatment Standard or requirement including numerical limits, narrative Standards, and prohibitions, that the Director determines has caused, alone or in combination with other Discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public.
2. Any Discharge that has caused imminent endangerment to the public or to the environment or has resulted in the Director's exercise of its emergency authority to halt or prevent such a Discharge.
3. Any violation(s), including of Best Management Practices, which the Director determines will adversely affect the operation or implementation of the local Pretreatment Program.
4. Chronic violations of Wastewater Discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same Pollutant parameter taken during a rolling six (6) month period exceed, by any magnitude, a numeric Pretreatment Standard or requirement, including Instantaneous Limits of SMC 13.18.330.
5. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of Wastewater measurements taken for each Pollutant parameter during a rolling six (6) month period equal or exceed the product of the numeric Pretreatment Standard or requirement, (including Instantaneous Limits, as defined by SMC 13.18.330, multiplied by the applicable criteria. Applicable criteria are 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other Pollutants except pH.
6. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a Wastewater Discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance.
7. Failure to provide any required report within forty-five (45) days after the due date. This includes initial and periodic monitoring reports, and reports on initial compliance and on meeting compliance schedules.
8. Failure to accurately report non-compliance.

- C. **APPLICABILITY:** The criteria in SMC 13.18.1000(B)(1) through SMC 13.18.1000(B)(3) are applicable to all Users, whereas the criteria in SMC 13.18.1000(B)(4) through SMC 13.18.1000(B)(8) are only applicable to Significant Industrial Users and Categorical Industrial Users

Section 11. Administrative Enforcement Remedies

13.18.1100 Procedures

The Director shall establish enforcement procedures consistent with the provisions of these Pretreatment Regulations. The Director shall adopt an Enforcement Response Plan consistent with the requirements of State law. Such Plan shall ensure that the application of remedies provided for in Section 9 through Section 11 of these Regulations is appropriate to the violation, and consistent with the treatment of other Non-Domestic Users. Any Person may review or obtain a copy in accordance with applicable local, state and federal public records policies of the Enforcement Response Plan by contacting the Control Authority. In response to non-compliance with any requirement of these Pretreatment Regulations, the Control Authority shall apply its Enforcement Response Plan, which shall be incorporated into the enforcement procedures.

13.18.1110 Notification of Violation

The Director may serve a written Notice of Violation on any Non-Domestic User that the Director finds has violated, or continues to violate, any provision of these Pretreatment Regulations, including terms or requirements of a permit, order, or a Pretreatment Standard or requirement. Non-Domestic Users shall, in response to a Notice of Violation, provide the Director a written explanation of the violation, its cause, and a corrective action plan within fourteen (14) calendar days of the receiving this notice. Non-Domestic Users submitting plans to correct non-compliance must include the specific actions they will take to correct ongoing and prevent future violations at the soonest practicable date. The Director's acceptance of a plan does not relieve a Non-Domestic User of liability for any violations. The Director may also take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

13.18.1120 Consent Orders

The Director may enter into a consent order or other voluntary agreement to memorialize agreements with Non-Domestic Users violating any requirement of these Pretreatment Regulations. Such agreements must include the specific action(s) required and date(s) they are to be completed to correct the non-compliance. Such documents must be constructed in a judicially enforceable manner and have the same force and effect as Administrative Orders issued pursuant to SMC 13.18.1150 and SMC 13.18.1160.

13.18.1130 Compliance Review Meeting

The Director may order a Non-Domestic User that has violated or continues to violate any provision of these Pretreatment Regulations, a Wastewater Discharge permit, order, Pretreatment Standard or requirement, to appear before the Director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the Non-Domestic User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least five (5) days prior to the meeting. Such notice may be served on any Authorized Representative of the User. A compliance review meeting shall not be a bar against, or prerequisite for, taking any other action against the Non-Domestic User.

13.18.1140 Compliance Orders

The Director may issue a compliance order to any Non-Domestic User which has violated any provision of these Pretreatment Regulations including a requirement of a permit, order, or a Pretreatment Standard or requirement. The compliance order may direct that the Non-Domestic User come into compliance within a specified time, install and properly operate adequate treatment facilities or devices, or take such measures as the Director finds are reasonably necessary. These measures may include additional self-monitoring and management practices designed to minimize the amount of Pollutants discharged to the POTW. 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 Non-Domestic User does not come into compliance within the time provided, sanitary 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 Non-Domestic User.

13.18.1150 Cease and Desist Orders

When the Director finds that a Non-Domestic User has violated, or continues to violate, any provision of these Pretreatment Regulations, a Wastewater Discharge permit or order issued hereunder, or any other Pretreatment Standard or requirement, or that the User's past violations are likely to recur, the Director may issue an order to the User directing it to cease and desist all such violations and directing the Non-Domestic User to:

- A. Immediately comply with all requirements; and
- B. 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 Non-Domestic User.

13.18.1160 Administrative Fines

- A. When the Director finds that a Non-Domestic User has violated, or continues to violate, any provision of these Pretreatment Regulations, a Wastewater Discharge permit or order issued hereunder, or any other Pretreatment Standard or requirement, the Director may fine such Non-Domestic User in an amount not to exceed five thousand dollars (\$5,000). 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 may be assessed for each day during the period of violation.
- B. The Director may add the costs of any emergency response, additional monitoring, investigation, and administrative costs related to the non-compliance and the Director's response to the situation to the amount of the fine.
- C. The Director will consider the economic benefit enjoyed by a User as a result of the non-compliance in cases where there appears to have been a monetary benefit from not complying. In such cases, the Director shall ensure that fines, to the maximum amounts allowable, exceed the benefit to the Non-Domestic User from the non-compliance.
- D. Unpaid charges, fines, and penalties shall, at thirty (30) calendar days past the due date, be assessed an additional penalty at a rate established by the Control Authority, and interest shall accrue

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

thereafter at a rate established by the Control Authority. After thirty (30) calendar days the Control Authority, on its own behalf or as an authorized agent of a Contributing Jurisdiction, shall be authorized to file a lien against the User's property for unpaid charges, fines, and penalties.

- E. Non-Domestic Users desiring to dispute such fines must file a written request for the Director to reconsider the fine along with full payment of the fine amount within fifteen (15) business days of being notified of the fine. Where a request has merit, the Director may convene a hearing on the matter. In the event the Non-Domestic User's appeal is successful, the Director shall rebate the difference between the initial and final penalty amounts to the Non-Domestic User.
- F. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the Non-Domestic User.

13.18.1170 Emergency Suspensions

The Director may immediately suspend a Non-domestic User's authorization to discharge to the POTW when the Discharge reasonably appears to present a substantial danger to the health or welfare of Persons. In such cases, the Director will first provide informal notice to the Non-domestic User. The Director may also immediately suspend Non-domestic User's authorization to discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, a danger to the environment.

- A. Any Non-domestic User notified of a suspension of authorization to discharge to POTW shall immediately stop or eliminate the Discharge. If a Non-Domestic User fails to immediately comply voluntarily with the suspension order, the Director may take such steps as deemed necessary to protect the public and its interest in the POTW. Remedies available to the Director include immediately severing the sanitary sewer connection, at the Users expense, turning off pump stations downstream of the Non-Domestic User, and partnering with law enforcement. The Director may not allow the Non-domestic User to recommence its Discharge until the Non-domestic User has demonstrated to the satisfaction of the Director that the situation warranting the suspension has been properly addressed and any proposed termination proceeding has been resolved.
- B. Any Non-domestic 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. Non-Domestic Users shall submit this report to the Director prior to the date of any compliance review meeting or termination hearing under SMC 13.18.1130 and SMC 13.18.1180, respectively.

13.18.1180 Termination of Discharge

Any Non-Domestic User who violates any of the following conditions is subject to having the privilege of discharging to the POTW withdrawn:

- A. Discharge of Non-domestic Wastewater without a permit or other Control Document, including:
 - 1. Where the appropriate permit or Control Document has not been requested;

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

2. Where the appropriate permit or Control Document has not yet been issued; or
 3. Where the permit or Control Document has been denied or revoked based on the provisions of SMC 13.18.650 (Wastewater Discharge Permit Revocation).
- B. Violation of permit or other Control Document terms and conditions including:
1. Exceeding any permit or Control Document limit;
 2. Failing to meet other Pretreatment Standards or requirements;
 3. Violating any prohibition; or
 4. Failing to properly monitor and report Discharges or changed conditions.
- C. Refusal of reasonable access to the Non-Domestic User's premises for the purpose of inspection, monitoring, or sampling (whether subject to a permit or not).
- D. Violation of the Pretreatment Standards and requirements in Section 3 of these Pretreatment Regulations, including failure to satisfy ~~Industrial-Non-Domestic User Screening Survey form~~ requirements.

When the Director determines this remedy is necessary and appropriate to fulfill the intentions of these Pretreatment Regulations, such User will be notified of the proposed termination of its Discharge and be offered an opportunity to show cause under SMC 13.18.1130 of these Pretreatment Regulations why the proposed action should not be taken. Exercise of this option by the Director shall not be a bar to, or a prerequisite for, taking any other action against the User.

SECTION 12. JUDICIAL ENFORCEMENT REMEDIES

13.18.1220 Injunctive Relief

The Director may seek injunctive relief when a User has violated, or continues to violate a provision of these Pretreatment Regulations, including a Pretreatment Standard or requirement, or a permit or order issued hereunder. In such cases, the Director may petition the Superior Court of Pierce County for temporary or permanent injunctive relief, as appropriate, which restrains or compels the specific performance of the Wastewater Discharge permit, Control Document, order, or other requirement imposed by these Pretreatment Regulations on activities of the Non-Domestic User. The Director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the Non-Domestic 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 Non-Domestic User.

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

13.18.1230 Civil Penalties

- A. A Non-Domestic User which has violated, or continues to violate a provision of these Pretreatment Regulations, including a Pretreatment Standard or requirement, or a permit or order issued hereunder shall be liable to the Control Authority for a maximum civil penalty of five thousand dollars (\$5,000) 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. Any such assessment, penalty, or charges shall constitute a lien against the individual User's property.
- B. The Director may recover reasonable attorneys' fees, court costs, and other expenses associated with any emergency response, enforcement activities, additional monitoring and oversight, and costs of any actual damages to the POTW.
- C. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, any other action the Director may take to resolve non-compliance by a Non-Domestic User.
- D. A Non-Domestic User's failure to pay such civil penalties shall constitute a violation of these Pretreatment Regulations and be grounds for termination of sanitary sewer utility services and revocation of the Wastewater Discharge permit or other Control Document or mechanism.

13.18.1240 Criminal Prosecution

- A. A Non-Domestic User who willfully or negligently violates any provision of these Pretreatment Regulations, a Wastewater Discharge permit, or order issued hereunder, or any other Pretreatment Standard or requirement shall, upon conviction, be guilty of a misdemeanor, punished by a fine of not more than one thousand dollars (\$1,000) per violation, per day, or imprisonment for not more than 90 days in jail, or both.
- B. A Non-Domestic User who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor. This penalty shall be in addition to any other criminal charges or judicial remedies, including remedies for causing personal injury, endangerment, or destruction of public property available under State law.
- C. A Non-Domestic User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to these Pretreatment Regulations, Wastewater Discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under these Pretreatment Regulations shall, upon conviction, be guilty of a misdemeanor.
- D. In the event of a second criminal conviction of these Pretreatment Regulations, a Non-Domestic User shall, upon conviction, be guilty of a gross misdemeanor, punished by a fine of not more than five thousand dollars (\$5,000) per violation, per day, or imprisonment for not more than 364 days in jail, or both.

13.18.1250 Remedies Nonexclusive

The remedies provided for in these Pretreatment Regulations are not exclusive. The Director may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment

violations will generally be in accordance with the Control Authority's Enforcement Response Plan. However, the Director may take other action against any User when the circumstances warrant. Further, the Director is empowered to take more than one enforcement action against any noncompliant User.

SECTION 13. SUPPLEMENTAL ENFORCEMENT ACTION

13.18.1300 Supplemental Penalties

- A. The Director may assess a penalty of one hundred dollars (\$100) to any Non-Domestic User for each day that a report required by these Pretreatment Regulations, a permit or order issued hereunder is late. The Director's actions to collect late reporting penalties shall not limit the Director's authority to initiate any other enforcement action. Non-Domestic Users desiring to dispute such fines must follow the procedures in SMC 13.18.1160.
- B. The Director may assess a penalty of one hundred dollars (\$100) for each day that a Non-Domestic User or establishment where fats, oils and grease may be introduced into the POTW is not in compliance with the routine maintenance schedule as authorized in SMC 13.18.410(H). The Director's actions to collect penalties for non-compliance per this Section shall not limit the Director's authority to initiate any other enforcement action. Non-Domestic Users desiring to dispute such fines must follow the procedures in SMC 13.18.1160(E).

13.18.1310 Performance Bonds

The Director may require a satisfactory bond, payable to the Control Authority, in a sum not to exceed a value determined by the Director as necessary to assure the Non-Domestic User will achieve consistent compliance with these Pretreatment Regulations. The Director may require this bond as an enforcement response or as a prerequisite to issue or reissue a Wastewater Discharge permit. Any Non-Domestic User who has failed to comply with any provision of these Pretreatment Regulations, 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 Control Authority may use this bond to pay any fees, costs, or penalties assessed to the User whenever the Non-Domestic Users account is in arrears for over thirty (30) days. This includes the costs of cleanup of the site if the Non-Domestic User goes out of business, sells the business to a Person that does not first assume the bond, or goes bankrupt. Non-Domestic Users may petition the Director to convert their performance bond to a requirement to provide Liability Insurance, or to forego any such safeguard based on their performance. A Non-Domestic User may petition no more frequently than once in any twelve (12) month period.

13.18.1320 Liability Insurance

The Director may require any Non-Domestic User to provide insurance if they previously failed to comply with any provision of these Pretreatment Regulations, a previous permit, or order issued hereunder, or any other Pretreatment Standard or requirement. The Director may also require Non-Domestic 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, Non-Domestic Users must provide proof that the insurance is sufficient to cover any liabilities incurred under these Pretreatment Regulations, including the cost of damages to the POTW and the environment caused by the User. The Director may require Non-Domestic Users to provide the proof of such insurance either in response to non-compliance or prior to issuing or reissuing a Wastewater Discharge permit.

13.18.1330 Payment of Outstanding Fees and Penalties

The Director may decline to issue or reissue a Wastewater Discharge permit to any Non-Domestic User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of these Pretreatment Regulations, a previous permit or order issued hereunder.

13.18.1340 Water Supply Severance

The Director may order water service to a Non-Domestic User severed whenever a Non-Domestic User has violated or continues to violate any provision of these Pretreatment Regulations, a permit, or order issued hereunder, or any other Pretreatment Standard or requirement. Non-Domestic Users wishing to restore their service must first demonstrate their ability to comply with these Pretreatment Regulations and pay the related costs of this action.

13.18.1350 Public Nuisances

A violation of any provision of these Pretreatment Regulations or a permit or order issued hereunder, or any other Pretreatment Standard or requirement, is hereby declared a public nuisance and shall be corrected or abated as directed by the Director. Any Person(s) creating a public nuisance shall be subject to the provisions of applicable law governing such nuisances, including reimbursing the Control Authority for any costs incurred in removing, abating, or remedying said nuisance.

13.18.1360 Contractor Listing

Non-Domestic Users which have not achieved compliance with applicable Pretreatment Standards and requirements may not be eligible to receive a contractual award for the sale of goods or services to the Control Authority or Contributing Jurisdiction. Existing contracts for the sale of goods or services to the Control Authority or Contributing Jurisdiction held by a Non-Domestic User found to be in Significant Non-Compliance with Pretreatment Standards or requirements may be terminated at the discretion of the Director.

SECTION 14. AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

13.18.1400 Upset

- A. For the purposes of this Section, the word “upset” means an exceptional incident in which there is unintentional and temporary non-compliance with Categorical Pretreatment Standards because of factors beyond the reasonable control of the User. An upset does not include non-compliance to the extent caused by operational error, improperly designed Pretreatment Facilities, inadequate Pretreatment Facilities, lack of preventive maintenance, or careless or improper operation.
- B. An upset shall constitute an affirmative defense to punitive actions in response to non-compliance with Categorical Pretreatment Standards SMC 13.18.320, but not Local Limits SMC 13.18.340, when the requirements of SMC 13.18.1400(C) are met.
- C. A Non-Domestic 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.

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

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 Pretreatment 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 Non-Domestic User submitted the following information to the Director within twenty-four (24) hours of becoming aware of the upset. When initially provided orally, the Non-Domestic User must have provided a written report within five (5) days that includes:
 - a. A description of the Indirect Discharge and cause of non-compliance;
 - b. The period of non-compliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and
 - c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the non-compliance.
- D. In any enforcement proceeding, the Non-Domestic 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 non-compliance with Categorical Pretreatment Standards.

13.18.1410 Prohibited Discharge Standards

A Non-Domestic User will have an affirmative defense to an enforcement action brought against it for non-compliance with the prohibitions in SMC 13.18.300(A) and SMC 13.18.300(B)(3) through SMC 13.18.300(B)(7) in certain cases. The Non-Domestic User must be able to prove that it did not know, or have reason to know, that its Discharge, alone or in conjunction with Discharges from other sources, would cause Pass Through or Interference and that either:

- A. A Local Limit exists for each Pollutant discharged and the Non-Domestic User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or
- B. No Local Limit exists, but the Discharge did not change substantially in nature or constituents from the Non-Domestic User's prior Discharge when the Control Authority was regularly in compliance with its NPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

13.18.1420 Bypass

- A. For the purposes of this Section, 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 Non-Domestic User may be authorized to allow a Bypass to occur if it does not cause Pretreatment Standards or Pretreatment Requirements to be violated and is for essential maintenance to assure efficient operation.
- C. Any other Bypass must meet the following requirements:
 - 1. Non-Domestic Users knowing in advance of the need for a Bypass must submit prior notice to the Director, at least ten (10) days before the Bypass whenever possible; and
 - 2. Non-Domestic Users must notify the Director of any unanticipated Bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours of becoming aware of the Bypass. Non-Domestic Users must provide a written follow-up report within five (5) days. The Director may waive the written report if the oral report was timely and complete. Unless waived, the written report must contain:
 - a. A description of the Bypass (volume, Pollutants, etc.);
 - b. What caused the Bypass;
 - c. When, specifically, the Bypass started and ended;
 - d. When the Bypass is expected to stop (if ongoing); and
 - e. What steps the User has taken or plans to take to reduce, eliminate, and prevent the Bypass from reoccurring.
- D. Bypass is prohibited, and the Director may take an enforcement action against a User for a Bypass, unless:
 - 1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - 2. There were no feasible alternatives to the Bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

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

3. The Non-Domestic User submitted notices as required under SMC 13.18.1420(C).

E. The Director may approve an anticipated Bypass, after considering its adverse effects, if the Director determines that it will meet the three (3) conditions listed in SMC 13.18.1420(E).

SECTION 15. ADMINISTRATIVE HEARING

13.18.1500 Right to Administrative Hearing

A. Any affected Non-Domestic User shall have the right to an administrative hearing to appeal the Director's determination to take any of the following actions:

1. Issue or deny a Non-Domestic User's Wastewater Discharge permit or other Control Document;
2. Impose particular conditions or requirements in a Non-Domestic User's Wastewater Discharge permit or other Control Document;
3. Suspend a Non-Domestic User's Wastewater services or Wastewater Discharge permit or other Control Document pursuant to SMC 13.18. ~~1120~~70;
4. Terminate the Non-Domestic User's Wastewater services or Wastewater Discharge permit or other Control Document pursuant to SMC 13.18.1 ~~124~~80;
5. Modify the Non-Domestic User's Wastewater Discharge permit or other Control Document pursuant to SMC 13.18.630;
6. Issue a Notice of Violation pursuant to SMC 13.18.1110;
7. Require annual publication pursuant to SMC 13.18.1000;
8. Issue a compliance order pursuant to SMC 13.18.1140;
9. Impose administrative penalties pursuant to SMC 13.18.1160;
10. Impose civil penalties pursuant to SMC 13.18.1230;

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

11. Assess damages and costs against the User pursuant to SMC 13.18.1230;
12. Impose any other discretionary action upon the User, or deny any discretionary action requested of the Director by the User, if such action or omission directly affects the Non-Domestic User; or
13. Take any other action with respect to the User which requires the opportunity for hearing by State law or constitutional right.

13.18.1510 Request for Administrative Hearing

- A. A hearing pursuant to this Section shall be requested by the Non-Domestic User, in writing to the Director within fifteen (15) business days of the User's actual notice of the Director's action or determination from which the User seeks appeal. Failure to request such hearing within this period shall constitute a waiver of the right to administrative hearing, unless the Director determines that good cause exists for the delay.
- B. Any request for administrative hearing shall adequately identify the affected Non-Domestic User, the Director's action or determination from which the User seeks appeal, and the basis or reasons for the appeal.
- C. The Director shall respond to all requests for administrative hearing within fifteen (15) business days of receipt of request from the User, or five (5) business days if the User is contesting suspension of Wastewater services, permit, or other Control Document.
- D. The Director may deny a request for hearing if the request is untimely, the action contested is not subject to appeal, or if the Director determines in good faith that the request is incomplete or additional information is needed to identify the User, determine the particular action or decision appealed, or determine the basis or reasons for appeal. If the request is denied, the Director shall state the basis for the denial in the Director's response.
- E. If the request for hearing is granted, the Director shall set a date for hearing no sooner than ten (10) days or later than thirty (30) days from the date of the Director's response to the request. The Director may extend the date for hearing upon good cause for delay and timely notice to the Non-Domestic User.
- F. The Director's response granting an administrative hearing shall notify the Non-Domestic User of the following items:
 1. The names and addresses of all parties to whom notice has been sent;
 2. The mailing address and telephone number of the department or office designated to represent the Director, typically the Control Authority or Contributing Jurisdictions' Attorney's Office;
 3. The official file or reference number and name of the proceeding;

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

4. The name, title, mailing address, and telephone number of the appointed hearings officer, if known;
5. A brief statement of the time, location, and nature of the administrative hearing;
6. A statement that the hearing is provided pursuant to this Section under the authority conferred upon the Director by SMC 13.18.020;
7. A reference to the particular Sections of these Regulations, State law, or Federal law upon which the Director intends to rely;
8. A short statement of the factual or legal matters asserted by the Director, if known; and
9. A statement that a party who fails to attend or participate in the scheduled hearing may be found in default.

13.18.1520 Hearings Officer

- A. The Hearings Officer for an administrative hearing under this Section shall be the Director or the Director's designate.
- B. A Person that has served as an investigator, prosecutor, or advocate in an adjudicative proceeding, or in its pre-adjudicative stage, or one who is subject to the authority, direction, or discretion of such a Person, may not serve as a Hearings Officer in the same proceeding.

13.18.1530 Petition for Disqualification

- A. Any party to the hearing may present a written petition for disqualification of a designated Hearings Officer. A Hearings Officer shall be subject to disqualification for actual bias, prejudice, interest, or any other cause sufficient to disqualify a judge under State law. Such petition shall particularly describe the basis or reasons asserted for disqualification, and must be submitted to the designated Hearings Officer within ten (10) days of official notice of the Hearings Officer's identity, or within five (5) days of actual knowledge of the basis for disqualification, whichever is longer. Failure to timely submit a petition for disqualification shall result in a waiver of that party's objection to the Hearings Officer. Petition for disqualification must be submitted at least two (2) days prior to hearing date.
- B. The Hearings Officer shall consider and decide such petition within ten (10) days and issue a written order stating facts and reasons for the determination made.

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

- C. The time for hearing set pursuant to SMC 13.18.1510 shall be stayed pending determination of a petition for disqualification.

13.18.1540 Pleadings, Briefs, Motions, Service

The Hearings Officer shall allow all parties, at appropriate stages of the proceeding, to submit and respond to written and oral pleadings, motions, petitions and objections. A party that submits written pleadings, briefs, petitions, or other documents to the Hearings Officer shall deliver a copy in advance to all other parties. The Hearings Officer may refuse to consider written pleadings, motions, petitions, and other documents which have not been delivered to other parties.

13.18.1550 Default

- A. When a party fails to attend or participate in a hearing pursuant to this Section, the Hearings Officer may issue an order of default disposing of the matter in favor of the opposing party.
- B. Within seven (7) days of issuance of order of default, the party against whom the order has been issued may petition the Hearings Officer, in writing, to repeal the order of default and set a new date for hearing. Upon good cause shown by the defaulting party, and a finding by the Hearings Officer, on the record, that repeal of the order of default is required in the administration of justice, such repeal of the order of default may be granted and the hearing re-set.

13.18.1560 Continuance

- A. Upon the written or oral motion of any party, or on his or her own accord, the Hearings Officer may grant a continuance of the date set for hearing for any good cause. Upon request for continuance, the party requesting continuance shall advise all other parties of the request. The Hearings Officer shall afford all other parties an opportunity to address a request for continuance before granting such motion. If contested, the Hearings Officer shall determine in his or her discretion whether good cause has been presented, taking into due consideration the orderly and efficient administration of such hearings.
- B. Upon order of continuance, the Hearings Officer shall determine a new date for hearing not to exceed thirty (30) days from the date of the previously arranged hearing, and shall advise all parties of the new date and time for hearing, and new location, if applicable.
- C. The time limits for hearing otherwise established by this Section shall be deemed to be waived by all parties upon issuance of an order of continuance.

13.18.1570 Procedure at Hearing

- A. The Hearings Officer shall preside over and regulate the course of proceedings at the hearing.
- B. To the extent necessary to make an informed and rational decision, the Hearings Officer shall allow all parties the opportunity to present evidence and argument, conduct cross-examination, and submit rebuttal evidence.
- C. Upon finding that the rights of the parties will not be prejudiced, the Hearings Officer may allow all or part of the hearing to be conducted by telephone, or other electronic means.

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

- D. The formal rules of evidence shall not apply to the presentation of evidence at the hearing. The Hearings Officer shall allow evidence if, in the judgment of the Hearings Officer, the evidence is of the kind upon which reasonably prudent persons are accustomed to rely in the conduct of their affairs. Upon the motion of any party, or upon his or her own accord, the Hearings Officer may exclude the presentation of evidence that the Hearings Officer determines is not relevant, cumulative, prejudicial, or excludable on the basis of constitutional or State law.
- E. All testimony of witnesses shall be made under oath or affirmation and the Hearings Officer is authorized by these Regulations to administer such oath or affirmation as set forth in RCW 5.28.010-060.
- F. The Hearings Officer may take administrative notice of: any fact judicially cognizable; technical or scientific facts within the Director's specialized knowledge; officially published laws and regulations of the Control Authority or any Contributing Jurisdiction, the State, the United States, or any other state; and any codes or standards that have been adopted by the Control Authority or any Contributing Jurisdiction, an agency of the United States, the State, or any other state, or by a nationally recognized organization or association.

Parties shall be notified of any such information which the Hearings Officer takes administrative notice and shall have the opportunity to address and/or contest the facts or materials so noticed prior to issuance of a final order.

13.18.1580 Record of Proceedings

- A. The Hearings Officer shall cause the hearing to be recorded in a method chosen by the Director. The Director shall not be required to prepare a transcript, unless required to do so by other provision of law.
- B. Any party may make arrangements to record the hearing through any means of choice, provided that the party arranges and pays for the expenses of recording, and provided further that the chosen recording means does not cause distraction or disruption.
- C. Upon issuance of a Final Order, the Director shall maintain the record of hearing for a period of ninety (90) days, for the purposes of judicial review.

13.18.1590 Public Access

Administrative hearings pursuant to this Section shall be generally open to public observation, unless required to be private by State law or constitutional provision, or if the Non-Domestic User requests confidentiality and establishes that evidence to be presented at the hearing is protected from public disclosure under the standards set forth in SMC 13.18.900. The Hearings Officer may order the hearing to be closed upon other good cause shown by the parties, such as undue distraction or disruption.

13.18.1600 Ex Parte Communications

- A. Once designated, the Hearings Officer shall not communicate, directly or indirectly, regarding any issue in the proceeding other than communications necessary to procedural aspects of maintaining an orderly process, with any elected official, officer, employee or other representative of the Control Authority or any Contributing Jurisdiction who has specific knowledge of the matter, or

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

with any other Person who has a direct or indirect interest in the outcome of the hearing, without notice and opportunity for all parties to participate, except as otherwise provided in this Part.

- B. The Hearings Officer may receive aid and advice from the Control Authority or any Contributing Jurisdictions' Attorney's Office, provided that the Hearings Officer initiates the communication, the particular employee providing advice has not and/or will not represent the Director at the hearing, and provided further that any such communications are limited to the resolution of legal issues requiring specialized knowledge or resources.
- C. The Hearings Officer may communicate with employees or consultants of the Control Authority or any Contributing Jurisdiction who have not participated in the proceeding in any manner, and who are not engaged in any investigative or prosecutorial functions in the same or a factually related case.
- D. Persons with whom the Hearings Officer may not communicate regarding any issue in the hearing under the provisions of SMC 13.18.1600(A) shall not initiate communication with the Hearings Officer, without notice and opportunity for all parties to participate, unless necessary to procedural aspects of maintaining an orderly process.
- E. Nothing in this Section shall prohibit the parties from communicating with the Hearings Officer when specifically authorized or required to do so by these Regulations or State law.
- F. A Hearings Officer who receives or initiates prohibited communications shall notify all parties and identify the party making the communication, or to whom the communication was made, and place on the record the substance of all prohibited communications. Any party may submit a written rebuttal statement to the Hearings Officer in response to a prohibited communication, and such statement shall be placed on the record, provided that the rebuttal is submitted within ten (10) days of the party's notice of the prohibited communication, and further that notice of the rebuttal is provided to all other parties. Such prohibited statements and rebuttals included on the record shall not be considered evidence in the Hearings Officer's determination and may form the basis for a petition for disqualification of the Hearings Officer.

13.18.1610 Issuance of Final Order

- A. The Hearings Officer shall issue a written Final Order within fifteen (15) business days of conclusion of the hearing. The Hearings Officer may extend the time for Final Order upon notice to the parties and upon good cause, including but not limited to: excessive evidence or testimony, factual or legal complexities requiring additional investigation or research, or time conflict with other prearranged matters. The Hearings Officer shall be reasonably diligent in issuing Final Orders within the timelines specified in this Section.
- B. The Final Order shall include the following elements:
 - 1. A statement of findings and conclusions, and the reasons and basis therefor, on all material issues of fact, law, or discretion presented on the record;

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

2. The remedy, sanction, or other action determined to be applicable;
 3. Any specific findings substantially based upon the credibility or demeanor of witnesses and the reasons therefor; and
 4. A statement advising the parties of the right to seek judicial review in Pierce County Superior Court by filing the appropriate petition within thirty (30) days of issuance of the Final Order.
- C. Findings of fact shall be based exclusively upon the evidence contained in the record of the hearing and shall be based upon the kind of evidence upon which reasonably prudent persons are accustomed to rely in the conduct of their affairs.
- D. The Hearings Officer may rely upon any specialized knowledge of the Control Authority or Contributing Jurisdictions in evaluating evidence.
- E. The Hearings Officer may allow the parties time after conclusion of the hearing to submit memos, briefs, or proposed orders. A party submitting a memo, brief, or proposed order shall provide notice of the submittal to all other parties and comply with the provisions of SMC 13.18.1540.
- F. The Hearings Officer may accept and issue, or incorporate into the Final Order, any stipulated agreement made between the parties, provided the Hearings Officer determines that such stipulated agreement does not offend the administration of justice.
- G. Nothing in this Section shall be interpreted as requiring a hearing prior to any emergency suspension under these Regulations.

SECTION 16 JUDICIAL REVIEW

13.18.1620 Final Action

- A. An administrative hearing, where provided by these Regulations, shall be a prerequisite to judicial review of the Director's determination, action, or omission under this Part. A Non-Domestic User shall not be deemed to have exhausted administrative remedies unless such hearing is timely requested and conducted or denied.
- B. A Final Order issued by a Hearings Officer pursuant to Section 15 of these Regulations, or the Director's refusal to grant a request for administrative hearing, shall constitute final agency action for purposes of administrative review.
- C. Except to the extent that these Regulations or another statute provides otherwise, the record resulting from any administrative hearing shall constitute the exclusive basis for agency action in judicial review of the administrative hearing.

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

- D. Unless otherwise provided by law, petition for judicial review of final agency action shall be submitted to Superior Court of Pierce County within thirty (30) days of final agency action and properly served upon the Control Authority.

SECTION 17 WASTEWATER TREATMENT Charges and Fees

13.18.1700 Pretreatment Charges and Fees

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

- A. Fees for Wastewater Discharge permit applications including the cost of processing such applications;
- B. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a User's Discharge, and reviewing monitoring reports submitted by Users;
- C. Fees for reviewing and responding to accidental Discharge procedures and construction;
- D. Fees for filing appeals;
- E. Fees to recover administrative and legal costs (not included in SMC 13.18.1700(B)) associated with the enforcement activity taken by the Director to address Non-Domestic User non-compliance; and
- F. Other fees as the Control Authority may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by these Regulations and are separate from all other fees, fines, and penalties chargeable by the Control Authority.

13.18.1710 High Strength User Charges and Fees

Non-Domestic Users meeting the definition of a High Strength User as defined in SMC 13.18.330(G) shall be subject to appropriate charges and fees as determined by the Director.

- A. A monthly sanitary sewer charge for flow is levied on each High Strength User discharging directly to the POTW. This charge is at a rate as determined by the Director and is based upon the measured volume of total Wastewater discharged to the POTW or metered water consumption.
- B. Rates for strength of Industrial Wastewater from High Strength Users are established for each pound of BOD and each pound of suspended solids as determined by the Director.
- C. Industrial Wastewater samples taken for the purpose of determining charges are to be taken by the Control Authority or as otherwise determined by the Control Authority. The samples taken shall be Composite Samples. Charges shall apply as specified in SMC 13.18.1710(B), as determined on the basis of at least one twenty-four (24) hour flow proportioned or timed sample analysis to be obtained twice per month and such analyses averaged for each month; provided, a new average for strength of Industrial Wastewater may be computed, regardless of previous averages, when changes

SUMNER – BONNEY LAKE JOINT PRETREATMENT PROGRAM
PRETREATMENT REGULATIONS

in preliminary treatment or industrial process changes have been made which are expected to significantly change the average strength of the Wastewater.

- D. Sampling procedures and methods to determine the mean wastewater strength for the purpose of determining charges shall be conducted by or under the direction of the Director. Samples shall involve a twenty-four (24) hour flow-proportioning or timed sampling device, where feasible, and be in accordance with methods as prescribed in SMC 13.18.790 and SMC 13.18.780. Sampling shall be conducted at sampling manholes or other locations adjudged by the Director to be suitable points from which samples would be representative, either singly or with other samples, of the Industrial Wastewater to be sampled. Samples shall be analyzed by an accredited laboratory as required by Chapter 173-50 WAC.

SECTION 18 MISCELLANEOUS PROVISIONS

13.18.1800 Severability

If any provision, paragraph, word, or Section of these Regulations is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

13.18.1810 Conflict

All other resolutions or regulations, or parts thereof, inconsistent, or conflicting with any part of these Regulations are hereby repealed to the extent of such inconsistency or conflict.