

ORDINANCE NO. _____-C.S.

AN ORDINANCE AMENDING CHAPTER 6 OF TITLE 5 OF
THE MODESTO MUNICIPAL CODE RELATING TO SEWAGE
COLLECTION AND DISPOSAL.

The Council of the City of Modesto does ordain as follows:

SECTION 1. AMENDMENT OF CODE. Chapter 6 of Title 5 of the Modesto

Municipal Code is hereby amended to read as follows:

CHAPTER 6 - SEWAGE COLLECTION AND DISPOSAL

ARTICLE 1. TITLE, PURPOSE, AND GENERAL PROVISIONS.

5-6.101. TITLE.

The ordinance codified in this chapter shall be known and may be cited as the City of Modesto Sewage Collection And Disposal Ordinance.

5-6.102. PURPOSE AND INTENT.

The purpose of this chapter is to set forth uniform requirements for direct and indirect discharges of pollutants into the wastewater collection and treatment system for the City of Modesto which will enable the City to comply with all applicable State and Federal laws including the Clean Water Act (33 U.S.C. 1251 et seq.), and the General Pretreatment Regulations (40 CFR Part 403).

The intent of this chapter is:

- (a) To prevent the introduction of pollutants into the City sewage system which potentially could interfere with the operation of the collection system, treatment processes or contaminate the resulting sludge;
- (b) To prevent the introduction of pollutants into the City sewage system which will pass through said system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the sewage system;
- (c) To protect municipal personnel who may come into contact with sewage, sludge and effluent in the course of their employment as well as protecting the general public;

- (d) To improve the opportunity to recycle and reclaim wastewater and sludge from the system;
- (e) To ensure the quality of the wastewater treatment plant sludge is maintained at a level which allows its marketability;
- (f) To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal sewage system;
- (g) To preserve the hydraulic capacity of the municipal sewage system; and
- (h) To require users of the sewage system to comply with Federal and State law.

5-6.103. DEFINITIONS.

Unless the context specifically indicates otherwise, the following terms and phrases shall be defined herein. Words and phrases used in this chapter and not otherwise defined shall be interpreted as defined in the Code of Federal Regulation, Standard Methods for the Analysis of Wastewater, or as established by State regulatory agencies.

- (a) The following terms shall have these meaning(s) in this chapter:

Act. The Federal Water Pollution Control Act, also known as the Clean Water Act.

Administrative order. An enforcement document which directs industrial users to implement corrective or remedial measures.

~~**Administrator.** The person appointed by the Director to manage the affairs of the City of Modesto, POTW Pretreatment Program.~~

Aliquot. A portion of a sample. Often an equally divided portion of a sample.

Apartment. A building or portion thereof containing three (3) or more dwelling units.

~~**Approval authority.** The State of California Water Resources Control Board, except for certain EPA oversight functions.~~

Authorized representative of industrial user. May be: (1) a principal executive officer of at least the level of vice-president, if the industrial

user is a corporation; (2) a general partner or proprietor if the industrial user is a partnership or proprietorship, respectively. A duly authorized representative is responsible for the overall operation of the facilities from which the direct or indirect discharge originates.

Baseline Monitoring Report (BMR). A required report for all industrial users subject to a categorical pretreatment standard. A BMR provides information that documents an industrial user's compliance status with all applicable Pretreatment Standards. If an industrial user is not in compliance with the BMR, a compliance schedule will be submitted with the BMR describing actions to achieve compliance.

Batch process. A treatment process in which a tank or vessel is filled with wastewater (or solution), the wastewater (or solution) is treated to meet discharge standards and is then released into the sanitary system. A batch process is intermittent not continuous.

Best Available Technology (BAT). A level of technology that is based on the very best (state-of-the-art) control and treatment measures that have been developed or are capable of being developed for a particular industrial category.

Best Practical Technology (BPT). A level of technology represented by the average of the best existing wastewater treatment performance levels within an industrial category.

Biochemical Oxygen Demand (BOD). A test that measures the organic strength of wastewater. The test represents the quantity of oxygen required by sewage for biochemical oxidation in five (5) days at twenty (20) degrees Celsius in ppm.

Biodegradable. Organic matter that can be broken down by bacteria to more stable forms which will not create a nuisance or give off offensive odors.

Blowdown. The removal of accumulated solids in boilers to prevent plugging of boiler tubes and steam lines. In cooling towers, blowdown is used to reduce the amount of dissolved solids in the recirculated cooling water.

Building sewers. A privately owned pipeline conveying wastewater from the premises of a user to a sewer main.

Bypass. The intentional diversion of wastestreams from any portion of an industrial user's treatment facility.

Categorical industrial user. ~~Are~~ All industrial users subject to National Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N.

Categorical industry. An industry which possesses industrial processes, defined in the Code of Federal Regulations as Categorical Processes.

Categorical limits. Industrial wastewater discharge pollutant effluent limits developed by the EPA that are applied to the effluent from any industry, in any category, anywhere in the United States, that discharge to a Publicly Owned Treatment Works (POTW). These are pollutant effluent limits based on the technology available to treat the wastestreams from the processes of the specific industrial category and normally are measured at the point of discharge from the regulated process. The pollutant limits are listed in the Code of Federal Regulations.

Categorical standards. Industrial waste discharge standards developed by EPA that ~~are applied~~ **apply** to the effluent from any industry **specifically identified in the categorical pretreatment regulations**, ~~in any category, anywhere in the United States~~, that discharges to a POTW. These are standards based on the technology available to treat the wastestreams from the processes of the specific industrial category and normally are measured at the point of discharge from the regulated process. The standards are listed in the Code of Federal Regulations.

Cease and desist order. An order by the Director requiring immediate termination of an activity or situation which threatens to create or does create a significant safety hazard, non-compliance with the provisions of this chapter, or non-compliance with State and/or Federal law. The order shall be enforceable in court.

Chemical Oxygen Demand (COD). A test that measures the inorganic and organic strength of wastewater. The test measures the amount of oxygen consumed from a chemical oxidant, in milligrams per liter (mg/l), under conditions outlined under the latest edition of Standard Methods for the Analysis of Wastewater.

City. The City of Modesto in the State of California.

Collection system. The combined pipes, conduits, manholes, ditches, ~~rock wells,~~ and other structures, usually underground, whose purpose is to convey wastewater ~~or storm water.~~

Commercial user. Any user whose premises are used to provide a product or service for retail or wholesale. Commercial shall include, but shall not be limited to, the following: Motel, hotel, boarding and rooming house, health care facility.

Compatible pollutants. Those pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and ammonia that are normally removed by the existing POTW treatment processes.

Compliance. The act of meeting specified conditions or requirements.

Compliance directive. An enforcement document which directs an ~~industrial~~ user to implement corrective or remedial measures.

Compliance schedule. An enforcement document which directs a user to create or imposes upon a user, a time schedule for meeting any provision of the sewer ordinance.

Consistent removal. The act of removing pollutants from wastewater in a manner which prevents the level of pollutants from exceeding any treatment standard at any time.

Control authority. The division of the City of Modesto, Public Works Department, which administers the POTW Pretreatment Program.

Cooling wastewater. The water discharged from any use to which the only pollutant added is heat or uses such as air conditioning, cooling or refrigeration.

Correction notice. A **written** notice to a user or users ~~orally or in writing,~~ to correct its non-compliance with the sewer ordinance.

Corrosion. The gradual deterioration or destruction of a substance or a material by chemical action. Corrosive materials deteriorate the collection system.

Deleterious. Refers to something that can be or is hurtful, harmful, or injurious to health or the environment.

Direct discharge. The discharge of treated or untreated wastewater directly to the waters of the State of California. Direct discharges are regulated under the NPDES program.

Director. The Public Works Director of the City or such other persons as may be designated by the Public Works Director to perform the services or make the determinations permitted or required in this chapter to be made by the Public Works Director of the City.

Discharge permit. Formal authorization by the Modesto Control Authority, stipulating the conditions under which wastewater effluent may be released into the sewage system.

Discharger. Any person that discharges or causes a direct or indirect discharge to a public sewer.

Dissolved solids. Solids that are completely dissolved in water and are not removable by laboratory filtration.

Domestic wastewater/sanitary sewage. The liquid and solid waterborne wastes derived from the ordinary living processes of humans of such character as to permit satisfactory disposal, without special pretreatment, into the public sewer or into a private wastewater disposal system.

Dry industry. Any user who does not discharge non-domestic wastewater and is a member of a category of users which the Director has determined to have a potential for impact upon the POTW.

Duplex. A building containing two (2) dwelling units.

Dwelling group. Two (2) or more buildings on any one (1) lot, containing three (3) or more dwelling units.

Dwelling unit A suite of one (1) or more rooms which is occupied by or intended to be occupied by one (1) family.

Enforcement. A series of procedures and/or actions used to ensure compliance with legislation or associated rules, ordinances, or limitations.

Environmental Protection Agency (EPA). The Federal agency charged by law with carrying out and obtaining compliance with the Clean Water Act of 1977 and other Federal environmental laws and promulgating, interpreting and enforcing regulations implementing such statutes.

Existing source. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed Pretreatment Standards which will be applicable to such source if the Pretreatment Standard is thereafter promulgated in accordance with Section 307 of the Act.

Flammable liquid. A liquid which by itself, or any component of it present in greater than one (1) percent concentration, has a flashpoint below one hundred (100) degrees Fahrenheit (thirty-eight (38) degrees Centigrade).

Flashpoint. The minimum temperature at which a liquid gives off vapor in sufficient concentration to ignite when exposed to any source of ignition.

Grab sample. A single sample of water collected at a particular time and place which represents the composition of the water only at that time and place.

Grease. Fats, oils, greases, or other ether-soluble matter, which shall include each of the following two (2) types:

- (1) Dispersed grease. Grease which is not floatable; and
- (2) Floatable grease. Grease which floats on the surface of quiescent sewage water or other liquid or which floats upon dilution of the liquid with water.

Groundwater discharge. The discharge of treated groundwater to the City's sewer system as permitted by the City subject to the conditions contained in this chapter, including an individual permit granted pursuant to Section 5-6.402 of this chapter.

Hazardous material management plan. A document prepared by an industry which contains copies of Material Safety Data Sheets (MSDS) as well as additional information regarding the storage, handling and disposal of all chemicals used on site by the industry.

Hazardous waste. Any waste that is potentially damaging to environmental health and/or the collection system because of toxicity, ignitability, corrosivity, chemical reactivity or other reasons.

Holding tank waste. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

House sewer line. The line connecting a user's property to the sewage system.

Indirect discharge. The discharge or the introduction of non-domestic pollutants from any regulated sources to the POTW, which may include certain holding tank wastes. These discharges are subject to EPA pretreatment regulations.

Industrial user. Any person who discharges or causes a discharge of industrial wastewater directly or indirectly to the City sewage system which requires a permit under the provisions of this chapter. This specifically includes any categorical users connected to the City sewage system whether or not they discharge process wastewater.

Industrial wastewater/industrial waste. All water-carried wastes and wastewater of the community, excluding domestic wastewater, and including all wastewater from any commercial or industrial production, manufacturing, processing, agricultural, or other operation. These may also include wastes of human origin similar to domestic wastewater.

Industrial wastewater discharge. Liquid and/or solids contained within a liquid, other than sanitary sewage, and discharged into the sewage system by an industrial user.

Inspector. A person authorized by the Director to inspect any facility or development subject to this ordinance that is discharging or anticipating may discharge to the wastewater collection system and/or the POTW.

Interceptor. A device or trap to reduce the amount of grease, sand, or oil entering the sewage system.

Interference. A discharge that alone or in conjunction with a discharge or discharges from other sources, both:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, including either the use or disposal of sludge; and
- (2) Is a cause of a violation of any requirement of the City NPDES permit (including an increase in the magnitude or duration of a

violation) or of the prevention of sewage sludge use or disposal in compliance with any applicable regulation.

Local limits. Pollutant discharge limits set by the local POTW based on the treatment plant's efficiency in treating specific pollutants.

Lot. A parcel of land consisting of one (1) or more contiguous lots of record in one (1) ownership.

Major industry. Any industrial user whose effluent discharge exceeds 4.0 million gallons per month (MG/mo), or whose biochemical oxygen demand (BOD) is greater than or equal to twenty thousand (20,000) pounds per month, or total suspended solids (TSS) is greater than or equal to ten thousand (10,000) pounds per month.

Mass emission rate. The weight of material discharged to the sewage system during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of a particular constituent or combination of constituents.

Material Safety Data Sheets (MSDS). A document normally developed by a chemical manufacturer or formulator, which provides pertinent information about a hazardous substance or mixture. The MSDS is required to be available to employees and inspectors when a hazardous substance is used or found in the workplace.

Maximum Allowable Industrial Loading (MAIL). The estimated maximum loading of a pollutant that can be received at a POTW's headworks from all permitted industrial users and other dischargers discharging non-domestic wastewater without causing pass through or interference. The MAIL is usually calculated by applying a safety factor to the maximum allowable headworks loading and discounting for uncontrolled sources, hauled waste and growth allowance.

Milestone. A time interval given in a compliance schedule specifying the date which an assigned task is to be completed leading to the completion of the objective(s) in the compliance schedule.

Minor industry. Any industry with an average effluent discharge which exceeds twenty-five thousand (25,000) gallons per day (GPD), or has a reasonable potential, in the opinion of the City, to adversely affect the POTW.

Mobile home park. Any area or tract of land where two (2) or more spaces are rented or leased or held for rent or lease to accommodate mobile homes.

Mobile home space. Each space in a mobile home park designed to be used for parking a mobile home on a temporary, semipermanent or permanent basis.

Mobile home subdivision. Any area or tract of land improved to subdivision standards with mobile home lots.

National Pollutant Discharge Elimination System permit (NPDES permit). A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342), governing direct discharges to the waters of the **United States**.

National pretreatment standard. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users. This term includes categorical limits established pursuant to Title 40 CFR Section 403.5, ~~or under the authority of this chapter.~~

New source. An industrial user or source constructed after the date of publication of proposed regulation in the Federal Register as defined in 40 CFR 403.3(k) as revised October 17, 1988.

Nonbiodegradeable. Any substances that cannot readily be broken down by bacteria to simpler forms.

Noncompatible pollutants. Those pollutants that are not removed by the POTW treatment system. These pollutants may be toxic waste and may cause pass-through or interference with the treatment system.

Non-contact cooling water. The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

Nonintegrated facility. Industrial wastewater sources at a single facility that generate wastewater from different categorical pretreatment processes, but do not combine the wastestreams prior to pretreatment or discharge to the sanitary sewer.

Nonsignificant industry. An industry that produces and discharges less than twenty-five thousand (25,000) gallons of wastewater per day and is not classified as a significant or categorical industry.

Notice of violation. A notice issued by the Director or Inspector to the industrial-user, hand delivered or mailed, informing the industrial-user that a violation has occurred.

Nuisance. Anything which is injurious to health or is indecent or offensive to the senses or an obstruction to the free use of property so as to interfere with the comfort or enjoyment of life or property or which affects at the same time an entire community or neighborhood or sewer collection system or POTW or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

Order to show cause hearing. A ~~meeting~~ **hearing** with representatives of a user and the Director or his/her designee to discuss reasons for non-compliance and corrective actions. At this time, the user may be issued an administrative order and/or fine(s).

Pass through. A discharge from an industrial source that passes through the POTW to the waters of the State in concentrations which, alone or in conjunction with other discharges, cause an NPDES permit violation.

~~**Permit.** The authorization by the City to the POTW facilities to discharge under specified rules and conditions.~~

Permittee. A person who has received a **wastewater discharge** permit to discharge wastewater pollutants into the City sewage system subject to the requirements and conditions established by the City.

Person. An individual, partnership, copartnership, firm, company, corporation, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by context.

pH. Mathematically, pH is the logarithm (base 10) of the reciprocal of the hydrogen ion activity in a substance. The pH range is from zero (0) to fourteen (14) where zero (0) is the most acidic and fourteen (14) the most basic, and seven (7) is neutral.

Pollutant. Any substance which causes an impairment (reduction) of water quality to a degree that may have an adverse effect on any beneficial use of the water.

Pollutants include: any dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into waters and onto the ground, or deposited where subsurface waters may become contaminated by leaching.

Pollution. The man-made or man-induced impairment (reduction) of chemical, physical, biological, and radiological integrity of water.

Pollution prevention permit. The authorization by the control authority to wet industries or dry industries to discharge under specified rules and conditions.

Premises. Any lot, piece or parcel of land, and building or other structure or any part of any building or structure used or useful for human habitation or gathering or carrying on any business, industry, or occupation.

Pretreatment or treatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutant to a POTW. The reduction or alteration can be obtained by physical, chemical, or biological processes, or process changes by other means except as prohibited by ~~40 CFR, Section 403.6(d)~~ **local limits adopted pursuant to this chapter.**

Pretreatment facility. Any works or device for treatment, control, or flow limitation of sewage or industrial waste, prior to discharge into a public sewer.

Pretreatment requirements. Requirements for users, established by the City, State, or other regulatory agency for the ~~insurance~~ **assurance** of compliance to pretreatment standards. Requirements may include, but are not limited to, the installation and maintenance of treatment equipment, metering facilities, and/or monitoring facilities.

Pretreatment standards. The maximum levels of pollutants allowed to be discharged under local, State, or Federal guidelines when implementing the best available technology to treat the process wastewater of the users.

Process wastewater. Any wastewater contaminated by human activities including, but not limited to, that originating from manufacturing, agriculture, processing, rinsing, washing or producing.

Public Owned Treatment Works (POTW). A treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292) which is owned in this instance by the City. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers, or other conveyances not connected to the facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewater from persons outside the City, who are, by contract or agreement users of the City treatment plant.

Receiving waters. Waters which are defined under 40 CFR 122 (NPDES System) as "Waters of the United States".

Residential user. Any user whose premises contain a dwelling unit(s) intended for permanent occupancy. Residential shall include, but shall not be limited to, the following: single-family residential; multi-family residential; condominiums/townhouses; mobile homes; senior residential housing.

Restaurant. A place where food is ~~processed~~ prepared and served to the public.

Sanitary sewer. A pipe or conduit (sewer) intended to carry domestic wastewater from homes, businesses, and industries to the treatment works. Storm water runoff or unpolluted water should be collected and transported in a separate system of pipes or conduits (storm sewer) to natural watercourses.

Sewage. Industrial waste or sanitary sewage, or both.

Sewage system. The facility designated and used for the collection, treatment, and disposal of industrial wastes and sanitary sewage.

Sewer bond redemption charge. A charge established to compensate the City for having provided collection and treatment facilities before being able to collect revenue from the benefitted properties.

Sewer District. The Modesto Municipal Sewer District No. 1 established by the City Council by Resolution No. 66-543 effective August 16, 1966, encompassing the City of Modesto and portions of contiguous unincorporated areas, the legal description and boundaries of which have been recorded in the office of the Recorder of the County of Stanislaus, including areas heretofore or hereafter annexed thereto.

Sewer lateral/sewer main. A pipeline which collects sewage from one (1) or more individual users and transports it to subtrunk and trunk sewers.

Sewer main service area. An area that is one hundred sixty (160) acres or less which is served by the extension of sewer mains. The sewer mains are connected to either a subtrunk sewer or a trunk sewer.

Sewer service. The services and facilities for the collection, treatment, and disposal of industrial wastes and sanitary sewage.

Sewer service charge. A charge established to pay the cost of operation, maintenance, and debt service of the sewage system.

~~**Shall** is mandatory; **may** is permissive.~~

Show cause order. An order for an ~~industrial~~ user to appear before the Director or the Director's designee to explain any noncompliance and why specified enforcement actions should not be taken.

Significant Industrial User (SIU) includes:

- (1) All categorical users, and;
- (2) Any noncategorical users that
 - (I) Discharge twenty-five **thousand** (25,000) gallons or more per day of process wastewater (excluding domestic wastewater); or
 - (ii) Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic (BOD, SS) capacity of the POTW; or
 - (iii) Has a reasonable potential, in the opinion of the City, to adversely affect the POTW.

Significant Noncompliance (SNC) includes:

- (1) Chronic violations where sixty-six (66) percent or more of the measurements exceed the same daily maximum limit or the same average limit in a six (6) month period.
- (2) Violations where thirty-three (33) percent or more of the measurements exceed the same daily maximum limit or the same average limit by more than the Technical Review Criteria (TRC) in a six (6) month period.
- (3) Failure to provide reports for compliance schedules, self-monitoring data, or categorical standards (BMR, ninety (90) day compliance reports, and periodic reports) within thirty (30) days from the due date.
- (4) Any discharge that has caused imminent endangerment of human health/welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
- (5) Any other violation(s) of an effluent limit (average or daily maximum) that the City believes has caused, alone or in combination with other discharges, interference with POTW(e.g. slug loads) or pass-through, or endangerment of health of the POTW personnel or the public.
- (6) Violations of compliance schedule milestones, contained in a local control mechanism or enforcement order, for starting construction, completing construction, and attaining final compliance by delay of ninety (90) days or more after any compliance schedule date.
- (7) Any other violations ~~or violations~~ that the Director considers to be significant.

Significant violation. ~~A violation which remains uncorrected for forty-five (45) days after notification of noncompliance; is part of a pattern of noncompliance over a twelve (12) month period; involves a failure to accurately report noncompliance; or resulted in the POTW exercising its emergency authority under Section 403.8 (f)(1)(vi)(B).~~

Slug load/slug discharge. Any discharge of water, sewage, or industrial waste which in concentration of any given constitute ~~or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flow rate during normal operation~~ **of non-routine, episodic nature,**

including but not limited to an accidental spill or non-customary batch discharge.

Spill. A release, whether accidental or intentional, of a material.

Spill containment. A government agency approved or local authority approved protection system or device designed to prevent ~~installed by the permittee to prohibit the~~ discharge of non-compatible pollutants to the sewer.

Standard industrial classification. A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987, as amended and supplemented.

Standard methods. Procedures described in the current edition of *Standard Methods for the Examination of Water and Wastewater*, as published by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

State. The State of California.

Storm water. Water resulting from any form of natural precipitation.

Subtrunk sewer. A pipeline designed to transport sewage from the subtrunk sewer service area to the trunk sewer.

Subtrunk sewer extension charge. A charge established to equalize the costs of connecting the in-tract facilities and/or oversize facilities of a particular subdivision or trunk sewers so that developments close to the chosen trunk sewer alignments do not receive unfair advantage over those located further away.

Subtrunk sewer service area. An area that is one hundred sixty (160) acres or larger that is not adjacent to a trunk sewer that is served by a subtrunk sewer.

Technical Review Criteria (TRC). An EPA term that defines the magnitude of a limits violation. The TRC is calculated by multiplying the daily average maximum limit by the applicable TRC value (TRC=1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH.)

Total Suspended Solids (TSS). Any insoluble material contained as a component of wastewater and capable of separation from the liquid portion of the wastewater by the appropriate filtering procedures and expressed in terms of milligrams per liter.

Total Toxic Organics (TTO). The sum of the concentrations of the toxic organic compounds, listed in the Code of Federal Regulations, present in the industrial users process wastewater discharge.

Toxic pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the EPA under the provisions of ~~the Act~~ Section 307(a) ~~or other acts of the Clean Water Act.~~

Trunk sewer. A pipeline which transports sewage from sewer main service areas and subtrunk sewer service areas to the water quality control plant.

User. Any person responsible for payment of sewer service charges for premises or any person who discharges, causes or allows the discharge of wastewater directly or indirectly to the sewage system. This includes residential, commercial, and industrial users as defined herein. This term specifically includes any categorical users connected to the City sewerage system whether or not they discharge process wastewater.

Waste manifest. The receipt which is retained by the generator of hazardous wastes as required by the State and/or the United States Government pursuant to RCRA, or the California Hazardous Materials Act, or that receipt which is retained by the generator for recyclable wastes or liquid non-hazardous wastes as required by the POTW.

Waste hauler. Any person carrying on or engaging in vehicular transport of wastewater as part of, or incidental to, any business for the purpose of discharging said wastewater into the POTWs system.

Wastewater. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the City's facilities.

Wastewater discharge permit. A control mechanism issued to an industrial user, or any person discharging to the sewage system that the Director determines needs a permit, to regulate its discharge of toxic,

organic, or hydraulic loading to the wastewater collection, conveyance, and treatment system.

Water quality control plant. The plant owned by the City and designed for the treatment and disposal of sewage, including a remote oxidation ponding site.

Water quality requirements. Requirements for City's treatment plant effluent, or for receiving waters, established by law, or by State or Federal regulatory agencies, for the protection of receiving water quality.

Waters of the State. ~~All Any surface water or groundwater, including saline waters, within the boundaries of the state streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.~~

Waters of the United States or waters of the U.S. includes:

- (1) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- (2) All interstate waters, including interstate "wetlands;"
- (3) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - (i) Which are or could be used by interstate or foreign travelers for recreational or other purposes;
 - (ii) From which fish or shell fish are or could be taken and sold in interstate or foreign commerce; or
 - (iii) Which are used or could be used for industrial purposes of industries in interstate commerce.
- (4) All impoundments of waters otherwise defined as waters of the United States under this definition;

- (5) Tributaries of waters identified in paragraphs (1) through (4) of this definition:
- (6) The territorial sea; and
- (7) “Wetlands” adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (1) through (6) of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of Clean Water Act (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition) are not waters of the United States. This exclusion applies only to manmade bodies of water which neither were originally created in waters of the United States (such as disposal area in wetlands) nor resulted from the impoundment of waters of the United States. Waters of the United States do not include prior converted cropland. Notwithstanding the determination of an area’s status as prior converted cropland by any other federal agency for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA. Notwithstanding the definition incorporated herein, all interpretations, changes and amendments to such definition shall be made in accordance and consistent with 40 CFR Parts 110, 112, 116, 117, 122, 230, 232, 300, and 401.

Wet industry. Any user which is not a Significant Industrial User (SIU) and has a non-domestic wastewater discharge.

Wetlands. Those areas that are inundated or saturated by surface or ground water at a frequency sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs and marshes.

5-6.104. AUTHORITY.

The City is regulated by several agencies of the United States Government and the State of California ~~to protect water quality within waters of the state and the United States.~~ , pursuant to the provisions of Federal and State Law. Under 40 CFR 403.8(f)(1) and the Porter-Cologne Water Quality Control Act Chapter 5-5, The City ~~has authority under the Constitution and the statutes of the State of California to enact and enforce this~~ is granted the authority to regulate and/or prohibit, by the adoption of an ordinance, ~~to regulate and/or prohibit the discharge of any waste, directly or indirectly, to the City’s sewer facilities. and by issuance of discharge permits, the discharge of any waste, directly or indirectly, to the City~~

~~sewer facilities.~~ Said authority includes the right to establish limits, conditions, and prohibitions; to establish flow rates or prohibit flows discharged to the City's sewer facilities; to require the development of compliance schedules for the installation of equipment systems and materials by all users; and to take all actions necessary to enforce its authority, whether within or outside the City's boundaries, including those users that are tributary to the City or within areas for which the City has contracted to provide sewerage services.

The City has the authority pursuant to California Health and Safety Codes 5471 and 5474 to prescribe, revise, and collect all fees and charges for services and facilities furnished by the City either within or without its territorial limits.

5-6.105. RESPONSIBILITY FOR ADMINISTRATION.

This chapter shall be administered for the City by the Director ~~or his/her designee.~~

5-6.106. DELEGATION OF AUTHORITY.

Whenever any power is granted to or a duty imposed upon the Director, the power may be exercised or the duty may be performed by a person authorized by the Director.

5-6.107. USER CLASSIFICATION.

The Director will classify all users in accordance with the principal activity conducted upon the premises. The purpose of classification is to facilitate regulation of discharge to public sewers on the basis of each user's waste quality, quantity, and flow; to provide an effective means of industrial waste source control; and to establish a system of sewer use charges based upon flow and waste strength which will ensure equitable recovery of district capital and operating costs.

5-6.108. TENANT RESPONSIBILITY.

Any person who shall occupy any premises as a tenant under any rental or lease agreement shall be jointly and severally responsible for compliance with the provisions of this chapter in the same manner as the owner.

5-6.109. CONFIDENTIAL INFORMATION.

All user information and data on file with the City shall be available to the public and governmental agencies without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods which

would be detrimental to the user's competitive position. The demonstration of the need for confidentiality made by the permittee must meet the burden necessary for withholding such information from the general public under applicable State and Federal law. Any such claim must be made at the time of submittal of the information by marking the submittal "Confidential Business Information" on each page containing such information. Information which is demonstrated to be confidential shall not be transmitted to anyone other than a governmental agency without prior notification to the user. Information concerning utility usage data may be deemed confidential, at the discretion of the Director, unless the user has violated the City's utility usage policy.

ARTICLE 2. REGULATIONS

5-6.201. PROHIBITED DISCHARGES.

- (a) No person shall discharge a quantity or quality of wastewater directly or indirectly to sewer facilities owned by or tributary to the City's sewage system which causes, or is capable of causing, either alone or by interaction with other substances:
 - (1) A fire or explosion;
 - (2) Obstruction to the flow in the sewage system resulting in interference or damage to the sewerage facilities;
 - (3) Danger to life or safety of any person;
 - (4) Impairment of the effective maintenance or operation of the sewerage system;
 - (5) The release of toxic or malodorous gas-producing substances; including any material identified as hazardous according to 40 CFR Part 261 except as may be specifically authorized by the Director;
 - (6) Interference with the wastewater treatment process;
 - (7) The City's effluent or any other product of the treatment process, residues, sludges, or scums, to be unsuitable for reclamation, reuse, or disposal;
 - (8) Discoloration, pass through, or any other condition which affects the quality of the City's treatment works effluent in such a manner

that receiving water quality requirements established by regulatory agencies cannot be met;

- (9) Conditions which violate any statute, rule, regulation, or ordinance of any public agency or regulatory agency having jurisdiction over the discharge of wastewater through the sanitary sewage system;
 - (10) Contamination of the collection system, soil, or groundwater by osmosis, chemical action, leakage, or any other means of conveyance from the sewage system.
- (b) No person shall discharge wastewater or any substance delivered by vehicular transport, rail car, or dedicated pipeline directly or indirectly to the City's sewerage facilities that is defined as a hazardous waste by the control authority.
 - (c) No person shall transport waste from one location or facility to another for the purpose of treating or discharging it directly or indirectly to a publicly owned sewer without written permission from the City.
 - (d) No user shall increase the contribution of flow, pollutants, or change the nature of pollutants where such contribution or change does not meet applicable standards and requirements or where such contribution or change would cause the City to violate its NPDES permit.
 - (e) No person shall discharge non-domestic wastewater that causes or contributes to a violation of the MAILs specified in Section 5-6.210.

5-6.202. PROHIBITION ON DILUTION.

No user shall increase the use of water or in any other manner attempt to dilute a discharge as a partial or complete substitute for treatment to achieve compliance with this chapter and the user's permit or to establish an artificially high flow rate for permit mass emission rates.

5-6.203. PROHIBITION ON SURFACE RUNOFF AND GROUNDWATER.

- (a) Groundwater, surface runoff, or subsurface drainage shall not be discharged directly or indirectly to the City's sewerage facilities except as provided herein. Pursuant to the City's groundwater discharge policy, the City may approve the discharge of such water only when no alternate method of disposal is reasonably available and the discharge is necessary to mitigate an environmental risk or health hazard. All other groundwater

policy discharge criteria must be met prior to any groundwater discharge to the City's sewage system.

- (b) The discharge of such waters shall require a groundwater discharge permit from the City pursuant to Article 4 of this chapter.
- (c) If a permit is granted for the discharge of such water into a public sewer, the user shall pay the applicable charges established and shall meet such other conditions as required by the City.

5-6.204. LIMITATIONS ON UNPOLLUTED WATER.

- (a) Unpolluted water, such as single pass cooling water, shall not be discharged directly or indirectly to the City's sewerage facilities except as provided herein. The City may approve the discharge of such water only when no alternative method of disposal or reuse is reasonably available and the discharge is necessary to mitigate an environmental risk or health hazard.
- (b) If the discharge of such water into a public sewer is approved, the user shall pay any applicable charges established and shall meet such other conditions as required by the City.

5-6.205. LIMITATIONS ON RADIOACTIVE WASTES.

No person shall discharge, or cause to be discharged, any radioactive waste or isotopes into a public sewer except:

- (a) When the person is authorized to use radioactive materials by the State Department of Health or other government agency empowered to regulate the use of radioactive materials; and
- (b) When the waste is discharged in strict conformity with current California Radiation Control Regulations (California Code of Regulations, Title 17) for safe disposal; and
- (c) When the person is in compliance with all rules and regulations of all other applicable regulatory agencies; and with specific written approval by the ~~Director~~ superintendent of the POTW.

5-6.206. LIMITATIONS ON THE USE OF GRINDERS.

Waste from industrial or commercial grinders shall not be directly or indirectly discharged into a public sewer, except wastes generated in packing or preparing

food or food products. Such grinders must shred the waste to a degree that all particles will be carried freely under normal flow conditions prevailing in the public sewer.

5-6.207. LIMITATIONS ON POINT OF DISCHARGE.

No person, except local sewerage agencies involved in maintenance functions of sanitary sewer facilities, shall discharge any wastewater directly into a manhole or other opening in a sewer other than through an approved building sewer, unless approved by the City upon written application by the user and payment of any applicable fees and charges established herein.

5-6.208. LIMITATIONS ON WASTE HAULER DISCHARGES.

A waste hauler/user proposing to discharge septic tank, cesspool wastes or other biodegradable or compatible material into the City's facilities must have a waste hauler discharge permit as required by **Article 4 of this chapter** ~~Section 5-6.401~~. Such wastewater shall be discharged only at a location specified by the City.

No waste hauler/user shall discharge constituents in excess of those specified in the respective **waste hauler discharge** permit based on the adopted local limits.

No waste hauler shall discharge to the City sewage system any material defined as hazardous waste by 40 CFR 261 of the Federal Resource Conservation and Recovery Act.

5-6.209. LIMITATIONS ON WASTEWATER STRENGTH AND CHARACTERISTICS.

- (a) No person shall discharge wastewater in excess of the permitted mass emission rates or limits as determined in accordance with this chapter.
- (b) No person shall discharge wastewater:
 - (1) Having a temperature higher than one hundred forty (140) degrees Fahrenheit, (sixty (60) degrees Centigrade), or which causes the temperature at the treatment plant to exceed one hundred four (104) degrees Fahrenheit (forty (40) degrees Centigrade);
 - (2) Having a pH less than 5.0 or greater than 12.0;
 - (3) Containing those pesticides and other toxic pollutants in toxic amounts, determined by the administrator of the Environmental Protection Agency in accordance with the Federal Act, such other

Federal or State acts as may be applicable, and as further designated from time to time by the Director; including the following substances or materials containing these substances: aldrin, dieldrin, benzidine, cadmium, cyanide, DDD, DDE, DDT, endrin, mercury, polychlorinated biphenyls (PCB's), toxaphene;

- (4) Having waters or wastes containing inorganic oils, including but not limited to motor oils, transmission oils, hydraulic fluids, gear oil, and machining oils;
- (5) Any wastewater that causes a hazard to human life or creates a public nuisance;
- (6) Containing flow or other materials, including, but not limited to, ammonia, chemical oxygen demand, total organic carbon, priority pollutants (as established by EPA), suspended solids, oil and grease of animals or vegetable origin, total dissolved solids, and phenolic compounds released in a discharge at a flow rate and/or concentration which will cause problems, pass through, or interference with the sewerage facilities;
- (7) Producing a gaseous mixture that is ten (10) percent or greater of the lower explosion limit (LEL). Prohibited materials include, but are not limited to, gasoline, kerosine, naphtha, benzene, toluene, xylene, ethers, ketones, and alcohols;
- (8) Containing material which will readily settle or cause an obstruction to the flow in the sewer resulting in interference to the same such as, but not limited to, sand, mud, glass, metal filings, diatomaceous earth, asphalt, dead animals, wood, bones, hair, and fleshes;
- (9) Any wastewater causing the treatment plant effluent to show a lethal concentration of fifty (50) percent as determined by a toxicity test of ninety-six (96) hours or less, using a percentage of the discharge and aquatic test species chosen by the Director;
- (10) In violation of any applicable Federal categorical pretreatment standards, State standards or other local regulations covering wastewater disposal.

When the Director determines that a user(s) is discharging to the POTW **in a manner that violates any of the conditions enumerated above or any of the above enumerated substances** in any amount which will interfere with the operation of

the POTW, the Director shall: 1) Advise the user(s) of the impact of the discharge on the POTW; and 2) Take such actions as deemed necessary to correct the interference with the POTW.

5-6.210. SPECIFIC POLLUTANT LIMITATIONS (LOCAL LIMITS).

The sum of all industrial discharges and other controllable sources to the sewage system shall not exceed the MAIL shown below, as measured at the sewage system headworks. Specific pollutant limitations regarding waste characteristics and constituent limits may be placed into wastewater discharge permits as mass emission rates or concentration based limits where necessary for individual discharges. No discharge shall exceed the collection system limits shown below at any location in the sewage system.

Any violation of a specific pollutant limitation as may be set forth in an individual wastewater discharge permit, or violation of any collection system limit shall subject the user to the same administrative actions, penalties, and enforcement actions as would be available for any other violation of this chapter.

Table 1. Maximum Allowable Industrial Loadings

Constituent	MAIL (lb/day)
Conventional	
Ammonia	7,483
Biochemical Oxygen Demand (BOD)	335,415
Electroconductivity	6,333 ⁽¹⁾
Total Dissolved Solids (TDS)	108,901
Total Suspended Solids (TSS)	128,229
Trace Elements	
Arsenic	23.3
Cadmium	4.0
Chromium (Total)	481
Copper	20
Lead	29
Mercury	0.033

Molybdenum	1.0
Nickel	60
Selenium	1
Silver	83
Zinc	103
Volatile Trace Organics	
Chlorodibromomethane	0.3
Dichlorobromomethane	23
Other Toxics	
Cyanide	17

(1) EC is shown in umhos/cm.

Table 2. Collection System Limits

Constituent	Collection System Limit
1,4-Dichlorobenzene	3,540 (ug/l)
Toluene	1,350 (ug/l)
pH	>5.0 (standard units)
Temperature	40°C

No person shall discharge wastewater to the City sewerage system which (1) exhibits any characteristic which is specifically prohibited by an action of the City Council, or (2) contains constituents in excess of any specific constituent level limitations as may be set by the City Council pursuant to 40 CFR 403.5 (b), (c), and (d). Specific pollutant limitations regarding waste characteristics and constituent limits may be adopted by resolution. The City may also incorporate Maximum Allowable Industrial Loadings (MAIL) on a user-specific basis into wastewater discharge permits where necessary.

Any violation of a specific pollutant limitation as may be set forth in a City resolution shall subject the user to the same administrative actions, penalties, and enforcement actions as would be available for any other violation of this chapter.

5-6.211. FEDERAL CATEGORICAL PRETREATMENT STANDARDS.

Upon the promulgation of the Federal Categorical Pretreatment Standards for a particular industrial subcategory, the Federal standard, if more stringent than limitation imposed under this resolution for sources in that subcategory, shall preempt the limitations imposed under this chapter. The Director shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12.

5-6.212. STATE REQUIREMENTS.

State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in this chapter.

5-6.213. MASS EMISSION RATE DETERMINATION.

- (a) Mass emission rates for non-compatible and/or compatible pollutants that are present or anticipated in the user's wastewater discharge may be set for each user and made an applicable part of each user's permit. These rates shall be based on **maximum allowable industrial loadings (MAIL) contained in Section 5-6.210**~~local discharge limits~~, or Federal categorical pretreatment standards, and the user's average daily wastewater discharge for the past three (3) years, the most recent representative data, or other data acceptable to the City. All mass emission rates must receive final approval by the Director.
- (b) To verify the user's operating data, the City may require a user to submit an inventory of all wastewater streams and/or records indicating production rates.
- (c) The City may revise limits or mass emission rates previously established in the discharger's permit at any time, based on: current or anticipated operating data of the discharger or the City; the City's ability to meet NPDES limits; or changes in the requirements of regulatory agencies.
- (d) The excess use of water to establish an artificially high flow rate for mass emission rate determination is prohibited.

5-6.214. PROHIBITION ON INFECTIOUS WASTE.

The City shall have the authority to require that any discharge of an infectious waste to the sewer be rendered non-infectious prior to discharge if the infectious waste is deemed to pose a threat to the public health and safety, or ~~will~~ results in

~~any~~ a violation of ~~applicable~~ waste discharge requirements or limitations imposed by State or Federal regulatory agencies on the City's wastewater treatment facilities.

5-6.215. LIMITATIONS ON DISPOSAL OF SPENT INDUSTRIAL SOLUTIONS AND SLUDGES.

- (a) Spent solutions, sludges, and materials of quantity or quality in violation of, or prohibited by this chapter, or any permit issued under this chapter must be disposed of in a legal manner at a legally acceptable point of disposal as defined by the City or appropriate regulatory agency. All waste manifests shall be retained for a minimum of three (3) years, and shall be made available to the agency upon request.
- (b) No person shall batch dump, except as allowed by permit.

5-6.216. GRAVITY SEPARATION INTERCEPTOR.

- (a) Any person that operates or maintains a facility for the servicing or repair of roadway machinery, industrial transportation equipment, motor vehicles, public or private transportation vehicles, or any other facility, with floor drains, or any other drains which may allow unacceptable waste discharge shall install and maintain a gravity separation interceptor as required by the Director. Domestic wastewater shall not be allowed to pass through the interceptor. The interceptor shall have a minimum operational fluid capacity of not less than one hundred (100) gallons and shall be designed to retain any material which will float and/or will settle. The interceptor shall be watertight, structurally sound, durable and shall have a minimum of two (2) chambers.
- (b) Any person that operates or maintains a restaurant shall install and maintain a gravity separation interceptor as required by the Director. Interceptor design and sizing for restaurants is described further in Section 5-6.220(c) of this chapter.

5-6.217. INTERCEPTOR REQUIREMENTS.

All users required to install a gravity separation interceptor shall comply with the following conditions:

- (a) All interceptor owners shall provide immediate access to the interceptor chambers at all times for the purpose of inspection, sampling, cleaning and maintenance. The user shall provide a separate ring and cover for each separate interceptor chamber. At no time shall any material, debris,

obstacles or other obstructions be placed which will prevent immediate access to the interceptor.

- (b) Any interceptor legally and properly installed before **October 1, 1995** ~~the effective date of this chapter~~ shall be acceptable as an alternative to the interceptor requirements of this chapter. The interceptor shall be effective in removing materials that float and settle and shall be immediately accessible for inspection, sampling, cleaning, and maintenance.
- (c) All drains and openings connected to an approved gravity separation interceptor shall be equipped with screens or devices which will exclude from the wastewater discharge all materials and particles with a cubic dimension greater than three-eighths (3/8) inch.
- (d) If the Director finds, either by engineering knowledge or by observation, that an interceptor is incapable of adequately retaining material that floats or settles in the wastewater flow, is structurally inadequate, or is undersized for the facility, the Director shall reject such interceptor and declare that the interceptor does not meet the requirements of this section. The user shall thereupon be required to install, at the user's expense, an interceptor which is acceptable to the Director.

~~**5-6.218. STANDARD INTERCEPTOR DESIGNS.**~~

~~The Director shall maintain a file, available to the public, of suitable designs of gravity separation interceptors. This file shall be for informational purposes only and shall not provide or imply any endorsements of any kind. Installation of an interceptor of a design shown in this file, or of any design meeting the size requirements set forth in this chapter shall not subject the City to any liability for the adequacy of the interceptor under actual conditions of use. The user and property owner shall not be relieved of the responsibility for keeping materials that float or settle out of City's collection system.~~

~~**5-6.219.**~~ **5-6.218. INTERCEPTOR MAINTENANCE.**

- (a) Any person who owns or operates a gravity separation interceptor shall properly maintain the interceptor at all times. The interceptor shall be cleaned as often as necessary to ensure that sediment and floating materials do not accumulate to impair the efficiency of the interceptor **but at a minimum of six (6) month intervals**. An interceptor is not considered to be properly maintained, if for any reason the interceptor is not in good working condition or if the operational fluid capacity has been reduced by more than twenty-five (25) percent by the accumulation of floating materials, sediment, oils or greases.

- (b) The use of chemicals, microbiological agents or other materials for the emulsification, suspension or dissolution of oil and grease is prohibited.
- (c) When an interceptor is cleaned, the removed sediment, liquid and floating material shall be legally disposed of in a manner other than to the City's collection system, POTW or storm drain. Manifests for the cleaning of the interceptor shall be kept at the same facility as the interceptor and shall be available at all times for inspection. **A minimum of three (3) years of manifest records should be available for review by the City.**
- (d) If the interceptor is not maintained adequately under the conditions of use, the interceptor shall be resized and the user shall install one which is effective in accomplishing its intended purpose.
- (e) The owner and lessee, sublessee, proprietor, operator, or superintendent of any facility, required to install an interceptor, are individually and severally liable for any failure to properly maintaining such interceptor.

5-6.219. STANDARD INTERCEPTOR DESIGNS.

The Director shall maintain a file, available to the public, of suitable designs of gravity separation interceptors. This file shall be for informational purposes only and shall not provide or imply any endorsements of any kind. Installation of an interceptor of a design shown in this file, or of any design meeting the size requirements set forth in this chapter shall not subject the City to any liability for the adequacy of the interceptor under actual conditions of use. The user and property owner shall not be relieved of the responsibility for keeping materials that float or settle out of City's collection system.

5-6.220. RESTAURANTS.

- (a) Any person who owns, operates, or maintains a restaurant shall complete a City wastewater discharge survey form. The form shall be submitted to the Director for review of grease interceptor requirements **and compliance with the provisions outlined in Sections 5-6.216 through 5-6.218 of this chapter.**
- (b) The size of grease interceptors shall be determined as described in the Uniform Plumbing Code, as adopted by the City.
- (c) All restaurant wastewater and waste from floor drains, floor sinks, sinks, waste container wash racks, dishwashers, and garbage grinders, or like equipment shall be directed through a minimum seven hundred fifty (750) gallon gravity separation interceptor. All domestic wastewaters from

restrooms, showers, drinking fountains, and condensate (i.e., ice melt, air conditioning) shall be kept separate from the restaurant wastewater until the restaurant wastewater has passed through all necessary pretreatment equipment, devices or monitoring stations.

5-6.221. PROHIBITED RESTAURANT SURFACE DISCHARGES.

No person who owns, operates or maintains a restaurant shall at any time discharge any wastewater to the storm drain, service dock areas, or ground. Wastewater generated by restaurants must be disposed of through a sanitary sewer, an approved gravity separation interceptor, or sample station connected to a sanitary sewer or hauled off-site and disposed at a legal disposal site.

5-6.222. CONDITIONAL WAIVERS.

Conditional waivers for the grease interceptor requirement **for restaurants, as required by Sections 5-6.220 and 5-6.221 of this chapter**, may be granted by the Director for those restaurants determined by the Director not to have adverse effects on the City's collection system or POTW. Conditional waivers may be revoked for the following reasons:

- (a) Changes in menu;
- (b) Falsification of information submitted in the City's wastewater discharge survey form;
- (c) Changes in operating hours;
- (d) Changes in equipment used;
- (e) Changes in the nature of the wastewater discharged as determined by random and scheduled wastewater sampling and analyses.

5-6.223. ADDITIONAL LIMITATIONS ON DISCHARGES.

Whenever deemed necessary, the Director may require **any** user to restrict its discharge during peak flow or loading periods, designate that certain wastewater be discharged only into specific sewers, relocate or consolidate points of discharge, separate domestic sewage wastestreams from industrial wastestreams, and such other requirements or limitations as may be necessary to protect the sewerage system and determine the user's compliance with the requirements of this chapter.

The Director may require the user to install and maintain, on the user's property and at the user's expense, a suitable storage and flow control facility to ensure equalization of flow.

Any user with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

5-6.224. RIGHT OF REVISION.

The City reserves the right to establish by resolution more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in this chapter.

ARTICLE 3. SEWERAGE CONSTRUCTION AND SEWER USE

5-6.301. CONNECTION TO SEWAGE SYSTEM REQUIRED.

Every building or structure in the Sewer District in which plumbing fixtures are installed shall be connected to the sewerage system where a sewer lateral is available within the time period provided for in Section 5-6.302. This requirement shall apply to any building or structure existing on July 1, 1967, as well as any building or structure thereafter constructed.

A sewer lateral is available for the purpose of this section when such a sewer lateral is located within one hundred (100) feet from the property line of any lot which can be served by such sewer lateral. A sewer lateral is available to new development when such a sewer lateral is located within one hundred (100) feet of the property line of any lot connecting to the sewage system.

5-6.302. CONNECTION TO SEWAGE SYSTEM--WHEN REQUIRED.

Every building or structure connected to a septic tank at the time a sewer lateral becomes available as defined in Section 5-6.301 shall be connected to the sewage system within five (5) years after the sewer lateral becomes available.

5-6.303. CONNECTION TO SEWAGE SYSTEM--UPON ANNEXATION--WHEN REQUIRED.

- (a) Buildings or structures connected to septic tanks in territory not located within the Sewer District on July 1, 1967, but which territory is subsequently annexed to the Sewer District, shall be connected to a sewer lateral within five (5) years from the effective date of annexation, where a sewer lateral is available or within five (5) years after a sewer lateral becomes available, whichever occurs later.

- (b) Nothing contained in this section shall be construed to invalidate or in any way make subject to refund any sewer service charges which were paid on property which was required to be connected to the sewage system under the provision of this section as it existed prior to April 1, 1980.

5-6.304. EXCEPTION TO MANDATORY SEWER CONNECTION.

If the Council determines that extraordinary hardship will result from strict compliance with the provisions of Sections 5-6.301, 5-6.302, 5-6.303, the Council, by resolution, may vary the conditions so that substantial justice may be done and the public interest secured, provided that such variation does not have the effect of nullifying the intent and purpose of this chapter.

5-6.305. REPAIR OF PRIVATE SEWAGE DISPOSAL SYSTEM.

No building permit shall be issued for the installation, alteration or repair of any private sewage disposal system or part thereof, on any lot for which a connection with a sewer lateral is available as defined in this chapter.

5-6.306. IMPROPER USE OF CONNECTED SEWERS.

The City hereby reserves the right to inspect any existing lateral or collecting sewers that discharges wastewater directly or indirectly to trunk sewers. If it is found that such lateral or collecting sewers are improperly maintained, thereby causing discharge of septic wastewater, excessive groundwater, debris or any other objectionable substance to the City sewers, the Director will give notice of the unsatisfactory condition to the offending discharger and shall direct that the condition be corrected.

5-6.307. CHARGE FOR EXCESSIVE SEWER MAINTENANCE.

No person shall discharge or cause to be discharged to a trunk sewer, either directly or indirectly, any waste that creates a stoppage, plugging, breakage, or reduction in sewer capacity or any other damage to sewers or sewerage facilities of the City. Any excessive sewer or sewerage maintenance expenses including administrative costs attributed thereto will be charged to the offending discharger by the City.

Any refusal to pay such charges for excessive maintenance expenses duly authorized by the City shall constitute a violation of this chapter.

5-6.308. INDUSTRIAL WASTE LINE CONNECTION.

Each industrial user shall have not more than one (1) industrial waste line connection to the City's sewage system, unless specifically approved by the Director.

5-6.309. RULES AND REGULATIONS.

- (a) No person shall connect property outside the Sewer District to the sewage system without first obtaining the consent of the ~~City Manager and the Public Works Director~~, and paying the fees and charges imposed by the City. In considering applications for furnishing sewer service to property located outside the Sewer District, the ~~City Manager~~ **Director** may impose such reasonable conditions to the granting of such privilege as the ~~City Manager~~ **Director** deems to be in the best interest of the City. Any agreements for the provision of such sewer service shall be approved as to form by the City Attorney.
- (b) Each user shall be responsible for the construction, maintenance and repair of his or her house sewer line. Each user shall be liable for damages which may result to the sewage system from his or her failure to keep his or her house sewer line in good order. A City inspector shall be admitted at all reasonable hours to all parts of any premises connected with the sewage system for purposes of checking the house sewer line and all fixtures and facilities connected thereto.
- (c) When a sewer connection fee is paid for a particular parcel, it shall be credited to subsequent owners of that parcel. Refunds shall be made for duplicate payments. Additional fees will be required where there are zoning, use density changes that will increase the fees.

ARTICLE 4. WASTEWATER DISCHARGE PERMITS.

5-6.401. WASTEWATER DISCHARGE PERMITS.

- (a) To provide the maximum public benefit from the use of City facilities, written authorization to use said facilities is required. This written authorization shall be in the form of a **wastewater** discharge permit. Users required, or who may be required, by the Director to obtain a wastewater discharge permit shall complete and file with the City a Wastewater Discharge Permit Application on a form provided by the City. Proposed new users shall apply at least sixty (60) days prior to the connection to the collection system of a contributing agency and/or connection to or contributing to the City's facilities. ~~No vested right shall be given by issuance of any permit(s) provided for in this chapter.~~

- (b) The Director shall review the Wastewater Discharge Permit Application provided by the proposed user to determine if the application is complete. The Director reserves the right to request additional information if the application is deemed to be incomplete.
- (c) Once the application has been deemed complete, the Director has sixty (60) days to issue a wastewater discharge permit subject to appropriate conditions, or may deny the issuance of a wastewater discharge permit by finding that the application fails to meet the required conditions as contained in this chapter. In the event the Director does not act on the Application within sixty (60) days, it is deemed denied.
- (d) No vested right shall be given by issuance of any permit(s) provided for in this chapter.
- (be) The wastewater discharge permit classification is dependent upon the type of discharger, volume, and characteristics of the discharge. The types of wastewater discharge permits are:
 - (1) Categorical Permit;
 - (2) Industrial User Permit:
 - (i) Major Industry,
 - (ii) Minor Industry;
 - (3) Pollution Prevention Permit:
 - (i) Wet Industry,
 - (ii) Dry Industry;
 - (4) Groundwater Discharge Permit;
 - (5) Wastehauler Discharge Permit.

5-6.402. GENERAL WASTEWATER DISCHARGE PERMIT REQUIREMENTS.

- (ca) In support of the application, the user shall submit, in units and terms appropriate for evaluation, all information as may be deemed by the Director as necessary to evaluate the Wastewater Discharge Permit Application. This information includes, but is not limited to: identifying

information; environmental control permits held; Standard Industrial Classification codes for industry as a whole or any categorical process; flow rates; wastewater constituents and characteristics; time and duration of discharge; peak discharge amounts; locations of all discharge points; pretreatment facilities; sampling and monitoring equipment and points; description of activities; facilities, and plant processes including raw materials, processes and types of materials which are or could be produced, by type; number of employees and hours of operation; time and duration of discharge; wastewater characteristics; site diagrams; flow schematics; and a statement reviewed by an authorized representative of the user and certified by a qualified professional indicating whether or not the pretreatment standards are being met on a consistent basis, and if not, what additional pretreatment is necessary.

- (db) The permittee must abide by all terms, provisions, rules and regulations contained in the permit and/or this chapter.
- (ec) Permit fees and any other associated fees may be collected by the City in an amount adopted from time to time by City Council resolution.

~~5-6.402.~~ **5-6.403. CHANGED CONDITIONS.**

No industrial user shall discharge new or increased pollutants, or make changes in the nature of its pollutants without applying for and receiving a modification to its Wastewater Discharge Permit.

~~5-6.403.~~ **5-6.404. CAPACITY CHARGE.**

Whenever the annual gallonage of flow from a major industrial user for a calendar year falls below eighty (80) percent of the capacity allocation shown on a permit issued in accordance with Section 5-6.401, the major industrial user shall pay for the calendar year a minimum sewer service charge, based on eighty (80) percent of the capacity allocation shown on the permit, to pay for unused capacity allocated to the industrial user.

~~5-6.404.~~ **5-6.405. IMPOSITION OF MORE STRINGENT REQUIREMENTS.**

In the event the City determines that it is necessary, in order to comply with the objectives of this chapter, to impose more stringent limitations or requirements on discharges to the wastewater disposal system than are set forth in an existing wastewater discharge permit, the City shall have the authority to require modifications of an existing wastewater discharge permit to incorporate such limitations or requirements.

~~5-6.405.~~ **5-6.406. DURATION OF PERMITS.**

Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The terms and conditions of the permit may be subject to modifications and change by the City during the life of the permit as limitations or requirements as identified in this chapter are modified and changed. The user shall be informed of any proposed changes in his/her permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

~~5-6.406.~~ **5-6.407. TRANSFER OF A PERMIT.**

Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned, transferred or sold at anytime for any purpose.

5-6.408. SPECIFIC CONDITIONS FOR CATEGORICAL AND INDUSTRIAL USER DISCHARGE PERMITS.

In addition to the general wastewater discharge permit conditions outlined in Sections 5-6.401 through 5-6.407 of this chapter, wastewater discharge permits for categorical and industrial users shall contain the following:

- (a) Effluent limits based on applicable treatment standards or pretreatment requirements.
- (b) Self-monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law and whether such monitoring is to be performed by the user.
- (c) A statement of applicable civil and criminal penalties for violation of pretreatment standard and requirements, and any applicable compliance schedule.
- (d) Limits on the average and maximum rate and time of discharge or requirements for flow regulations and equalization.
- (e) Requirements for installation and maintenance of pretreatment technology, pollution control or containment devices, and inspection and sampling facilities.

- (f) Requirements for submission of technical reports or discharge reports.
- (g) A statement 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.
- (h) Requirements for maintaining and retaining facility records relating to wastewater discharge as specified by the City, and affording City access thereto.
- (i) Requirements for notification to the City of any new wastewater constitutes being discharged to the Water Quality Control Plant.
- (j) Requirements for the development and implementation of slug control plan, spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges.
- (k) Other conditions as deemed appropriate by the City to ensure compliance with this article, and State and Federal laws and regulations.

5-6.409. SPECIFIC CONDITIONS FOR POLLUTION PREVENTION PERMITS.

In addition to the general wastewater discharge permit conditions outlined in Sections 5-6.401 through 5-6.407 of this chapter, wastewater discharge permits for pollution prevention shall include at a minimum the following:

- (a) Self-monitoring, sampling, reporting, notification and record keeping requirements as deemed necessary by the Director. If monitoring is deemed necessary, these requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State and local law and whether such monitoring is to be performed by the user.
- (b) Requirements for implementation of best management practices, and inspection and sampling facilities.
- (c) A description of the mechanism for reclassifying the permit from a Pollution Prevention Permit to an Industrial User Discharge Permit.

5-6.410. SPECIFIC CONDITIONS FOR GROUNDWATER DISCHARGE PERMITS.

In addition to the general wastewater discharge permit conditions outlined in Sections 5-6.401 through 5-6.407 of this chapter, wastewater discharge permits for groundwater discharge may include additional requirements at the discretion of the Director.

5-6.411. SPECIFIC CONDITIONS FOR WASTEHAULER DISCHARGE PERMITS.

In addition to the general wastewater discharge permit conditions outlined in Sections 5-6.401 through 5-6.407 of this chapter, wastewater discharge permits for wastehauler discharges shall include at a minimum the following:

- (a) Requirement to discharge only contents contained in cesspools, septic tanks, or portable sanitary toilets into the receiving station designated for such waste at 1221 Sutter Avenue, Modesto, California. Waste from these sources, to be discharged at the City wastewater treatment facilities, shall be sanitary sewage. No industrial, hazardous or toxic waste, including, but not limited to, grease, oils, sand, large solids, eggshells, volatile organics, solvents, paints and metal bearing waste will be accepted.
- (b) Requirement to bear the cost for any cleanup or repair to the treatment plant or collection system resulting from damage caused by the discharger's actions.
- (c) Requirement to supply and maintain proper equipment for discharging liquid wastes at the designated receiving station (i.e., extension or hose attachments).
- (d) A statement of applicable civil and criminal penalties for violation of pretreatment standard and requirements, and any applicable compliance schedule.
- (e) Requirement to furnish monthly reports listing the origin of each load of waste dumped at the designated receiving station. Reports shall list City permit number, customer name, street address, city of origin, driver's name, dump date, stamped ticket dump time, and indicate if the customer is a commercial business.
- (f) Requirement to provide samples upon request by City and a list of procedures associated with sample collection.

ARTICLE 5. FACILITIES REQUIREMENTS.

5-6.501. PRETREATMENT FACILITIES.

- (a) All users shall provide wastewater acceptable to the City, under the limitations established herein before discharging to any public sewer. Any facilities required to pretreat or transport wastewater shall be operated and maintained by a qualified operator and in proper operating condition at the user's expense.
- (b) All users may also be required; by the City to submit waste analysis plans, contingency plans, and comply with other necessary requirements to ensure proper operation of the pretreatment facilities, compliance with permit limits, and compliance with this chapter.
- (c) Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be acceptable to the City before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this chapter, the wastewater discharge permit, or the Categorical Pretreatment Standards all as currently enacted or as later amended or modified. Any subsequent changes in the pretreatment facilities or methods of operation shall be reported to and be acceptable to the City prior to the user's initiation of the changes.

5-6.502. SPILL CONTAINMENT FACILITIES.

All users shall provide spill containment for protection against discharge of prohibited materials or other wastes regulated by this chapter. Such protection shall be designed to secure the discharge and to prevent it from entering into the system in accordance with reasonable engineering standards. Such facilities shall be provided and maintained at the user's expense.

5-6.503. SPILL PREVENTION PLANS.

- (a) Industrial users shall provide protection from accidental discharge of materials which may interfere with the municipal sewage system by developing spill prevention plans. Facilities necessary to implement these plans shall be provided and maintained at the owner's or industrial user's expense. ~~Spill prevention plans, including the facilities and the operating procedures, shall be approved by the City before implementation of the plan.~~

- (ab) Industrial users that store hazardous substances shall not contribute to the municipal sewage system after the effective date of this chapter, **June 17, 1999** unless a spill prevention plan has been approved by the City. ~~Approval of~~ Such plans shall not relieve the industrial user from complying with all other laws and regulations governing the use, storage, and transportation of hazardous substances.

5-6.504. MONITORING/METERING FACILITIES.

- (a) The City may require any user discharging sewage or industrial waste in quantities in excess of twenty-five thousand (25,000) gallons per day or whose flows, in the opinion of the ~~the~~ Director, may substantially impact the POTW, to construct and maintain in proper operating condition at the user's sole expense, flow monitoring, constituent monitoring and/or sampling facilities of the type the Director deems appropriate for the user's facilities.
- (b) Any sample taken from a sample box or other representative sampling location is considered to be representative of the discharge to the public sewer.
- (c) Monitoring or metering facilities may be required to include a security closure that can be locked with a City provided lock during sampling or upon termination of service.
- (d) Location of the monitoring or metering facilities shall be subject to approval by the City.
- (e) Location of the monitoring or metering facilities shall provide clear and uninterrupted access to the City.
- (f) The Director may utilize metering of the user's water supply instead of or in addition to metering the wastewater discharge.

5-6.505. SEPARATION OF DOMESTIC AND INDUSTRIAL WASTEWATERS.

All domestic wastewaters from rest rooms, showers, drinking fountains, etc., shall be kept separate from all industrial wastewaters until the industrial wastewaters have passed through any required pretreatment system or device and the industrial wastewater monitoring facility or station.

5-6.506. DRAWING SUBMITTAL REQUIREMENTS.

- (a) Detailed plans shall be submitted to the City for review of existing or proposed construction of pretreatment facilities, spill containment facilities, monitoring facilities, metering facilities, and operating procedures. City approval shall be received prior to commencement of construction. The review of the plans and procedures shall in no way relieve the user of the responsibility of modifying the facilities or procedures in the future, as necessary, to meet the requirements of this chapter or any requirements of other regulatory agencies.
- (b) All drawings shall include:
 - (1) North arrow;
 - (2) Scale size;
 - (3) User name and address;
 - (4) Drawing name and drawing number;
 - (5) Date drawn or revised;
 - (6) Name of draftsman and name of person approving drawing.
- (c) The City may require drawings to scale depicting the manufacturing process (waste generating sources), spill containment, pretreatment facilities, and/or monitoring/metering facilities.
- (d) The City may require a schematic drawing of the pretreatment facilities.
- (e) The City may require the drawings be prepared by a California registered chemical, mechanical, or civil engineer.

5-6.507. WASTE MINIMIZATION REQUIREMENTS.

The Director may require the user to provide waste minimization plans to conserve water, investigate product substitution, provide inventory control, implement employee education, and take other steps as necessary to minimize waste produced.

**ARTICLE 6. MONITORING, REPORTING, NOTIFICATION,
AND INSPECTION REQUIREMENTS.**

**5-6.601. MONITORING FOR COMPLIANCE WITH PERMIT
CONDITIONS OR REPORTING REQUIREMENTS.**

(a) The City may require reports for self-monitoring of wastewater constituents and characteristics of the discharger needed for determining compliance with any limitation, or requirement as specified in the user's permit, **State or Federal regulations requirements**, or this chapter. These reports include:

- (1) Baseline Monitoring Reports (BMR),
- (2) Compliance Schedule Progress Reports,
- (3) Ninety (90) Day Compliance Reports,
- (4) Periodic Reports on continued compliance,
- (5) Other reports as required by the City.

Monitoring reports of the analyses of wastewater constituents and characteristics shall be in a manner and form approved by the City and shall be submitted upon request of the Director. When applicable, the self-monitoring requirement and frequency of reporting shall be set forth in the user's permit. The analyses of waste water constituents and characteristics and the preparation of the monitoring report shall be done at the sole expense of the user. Failure by the user to perform any required monitoring and/or submit monitoring reports required by the City shall be a violation of this chapter, may result in a determination that the permittee is in significant noncompliance, and be cause for the City to initiate all necessary tasks and analyses to determine the wastewater constituents and characteristics for any limitation and requirement specified in the user's permit or in this chapter. The user shall be responsible for any and all expenses of the City in undertaking such monitoring analyses and preparation of reports.

(b) Each industrial user is required to notify the City, in writing, at least ninety (90) days before, any planned changes to the industrial user's operations or systems which may result in the nature, quality or volume of its wastewater to exceed that industrial user's classification parameters or permit limits.

5-6.602. REPORTS FROM ~~NONCATEGORICAL~~ **NON-PERMITTED USERS.**

All ~~industrial~~ users **and other controllable sources** not subject to categorical pretreatment standards and not required to obtain a wastewater **discharge** permit shall provide appropriate reports to the City as the Director may require.

5-6.603. INSPECTION AND SAMPLING CONDITIONS.

- (a) The City may inspect and sample the wastewater generating and disposal facilities of any user to ascertain whether the intent of this chapter is being satisfied and the user is complying with all requirements.
- (b) The City shall have the right to set up on the user's property or any other locations as determined by the City, such devices as are necessary to conduct sampling or metering operations. Where a user has security measures in force, the user shall make necessary arrangements so that personnel from the City will be permitted to enter without delay for the purpose of performing their specific responsibilities. **In those situations when there is no owner and/or occupant present, or when such person or persons refuse entry, entry may be obtained under a search warrant issued by a duly authorized magistrate. The City Attorney is authorized to seek such warrants upon request by the Director.**
- (c) **Nothing herein shall be read to limit the immediate right of entry without a warrant:**
 - (1) **In any emergency situation; or**
 - (2) **Where entry is permitted under the Constitution or any State or Federal law.**
- (cd) In order for the City to determine the wastewater characteristics of the discharger for purposes of determining compliance with permit requirements, the user is required to make available for inspection and copying by the City all notices, self-monitoring reports, waste manifests, and records including, but not limited to, those required in 40 CFR Chapter I, Subchapter N, without restriction but subject to the confidentiality provision set forth in Section 5-6.109 herein. All records are to be kept a minimum of three (3) years.
- (de) All samples shall be taken, preserved, and analyzed in accordance with the procedures presented in the Code of Federal Regulations, Title 40, Part 136 (Guidelines Establishing Test Procedures for the Analysis of Pollutants) or the most recent accepted edition of Standard Methods for the Analysis of Wastewater. Unless approved otherwise by the City, all analyses shall be performed by a laboratory(ies) certified by the State to perform analysis for the specific pollutant in wastewater.

5-6.604. NOTIFICATION OF SPILLS OR SLUG LOADING.

- (a) In the event the discharger is unable to comply with any of the permit conditions due to a breakdown of equipment, accidents caused by human error or act of God, or the discharge will exceed the provision of this chapter, the discharger shall notify the City by immediately telephoning **as described in the wastewater discharge permit** as soon as the discharger has knowledge of the incident.
- (b) The discharger shall confirm this notification in writing as soon as possible, but no later than five (5) working days from the telephone notification. The written notification shall state the date of the incident, the reasons for the discharge or spill, what steps were taken to correct the problem, and what steps are being taken to prevent the problem from recurring. **The specific contact will be designated in the wastewater discharge permit.**
- (c) Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage or loss to the City or any other damage or loss to person or property; nor shall such notification relieve the user of any fees or other liability which may be imposed by this chapter or other applicable law.

5-6.605. NOTIFICATION OF BYPASS.

- (a) Bypass of industrial wastewater to the sewer is prohibited. The City may take enforcement action against the user, 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 treated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
 - (3) The permittee submitted notices as required by this Section 5-6.604.
- (b) If a permittee knows in advance of the need for a bypass, it shall submit prior notice to the City **as directed in the wastewater discharge permit**, if possible at least ten (10) days before the date of the bypass.

- (c) The City may approve an anticipated bypass after considering its adverse effects, if the City determines that it will meet the conditions listed in this section.
- (d) A permittee shall submit oral notice of an unanticipated bypass, to the City, immediately after the user has knowledge of the bypass. A written report shall also be provided within five (5) working days of the time the permittee becomes aware of the bypass. The report shall contain a description of the bypass, its cause, the duration of the bypass, including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass. Failure to submit oral notice or written report may be grounds for permit revocation.
- (e) Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage or loss to the City or any other damage or loss to person or property; nor shall such notification relieve the user of any fees or other liability which may be imposed by this chapter or other applicable law.

ARTICLE 7. ENFORCEMENT.

5-6.701. ENFORCEMENT RESPONSIBILITIES.

The City Manager shall ensure enforcement of this chapter by coordinating the actions of the Finance Director, the Public Works Director, **the City Attorney**, and any other City departments concerned with implementing and enforcing the City's Enforcement Response Plan. The Public Works Director is hereby charged with the enforcement of all of the provisions of this chapter.

5-6.702. NOTICE OF VIOLATION.

The Director or his/her designee may issue a written notice to any user in noncompliance, by hand delivering or mailing, notice of the violation to the user indicating, possible enforcement actions, and/or actions to be performed by user to comply with provisions of this chapter.

5-6.703. NONCOMPLIANCE WITH PERMIT CONDITIONS AND APPLICABLE FEES.

- (a) If routine sampling of the effluent of a permittee reveals noncompliance by the permittee with the mass emission rates or other conditions and limitations specified in the permittee's discharge permit, or with any

provision of this chapter, then the permittee may be required to pay fees to the City as specified from time to time by resolution.

The purpose of the noncompliance fees is to compensate the City for additional costs of sampling, monitoring, laboratory analysis, treatment, disposal, and administrative processing incurred as a result of the noncompliance, and shall be in addition to and not in lieu of any penalties as may be assessed pursuant to this chapter.

- (b) The noncompliance fees specified shall commence on the date the sampling establishes noncompliance, and shall continue to accumulate for each day continuing noncompliance is verified by sampling.

5-6.704. ADMINISTRATIVE CIVIL PENALTIES.

The City may issue an administrative penalty to any person who violates any requirement adopted or ordered by the City pursuant to this chapter. The administrative complaint shall allege, with particularity, the act or failure to act which constitute the violation, the section of Modesto Municipal Code violated, the civil penalty, and shall be served by personal delivery or certified mail on the person subject to the discharge requirements. ~~The amount of civil penalties contained in the administrative complaint shall be assessed in accordance with Government Code Section 54740.5.~~ In addition, the administrative complaint shall inform the person served ~~that a hearing shall be conducted within sixty (60) days after the person has been served. The hearing shall be before a hearing officer designated by the City Council. The person who has been issued an administrative complaint may waive the right to a hearing, in which case the City shall not conduct a hearing. A person dissatisfied with the decision of the hearing officer may appeal the decision to the governing board of the local agency within thirty (30) days of notice of the hearing officer's decision. of the appeal process.~~ ~~The person served may waive the right to appeal, in which case the City shall not conduct a hearing. Penalties imposed by the local agency pursuant to this chapter shall be assessed in accordance with Government Code Section 54740.5.~~

When civil penalties imposed pursuant to this chapter have remained delinquent for a period of sixty (60) days from the date assessed, a lien may be placed against the real property from which the discharge originated and which resulted in the imposition of the civil penalty.

The City may, at its option, elect to petition the Superior Court to confirm any order establishing civil penalties and enter judgement in accordance with the provisions of Sections 1285 to 1287.6, inclusive, of the California Code of Civil Procedure.

5-6.705. ORDER TO SHOW CAUSE HEARING.

If a user fails to correct causes of noncompliance, or if the level of the violation is substantial, a meeting may be arranged, with representatives of the user and the Director or his/her designee to discuss the reasons for noncompliance and/or possible corrective actions.

5-6.706. COMPLIANCE SCHEDULE.

- (a) When the City finds any user to be in or threatening violation of any provision of this chapter; the City may require that user to submit for approval, with such modifications as the City deems necessary, a detailed time schedule of specific corrective actions to be taken to comply with this chapter. The user shall abide by and implement the adopted schedule.
- (b) The schedule shall contain milestones in the form of dates for the commencement and completion of major events leading to compliance. The user shall submit a progress report to the City no later than fourteen (14) days following the completion of each milestone set forth in the schedule. All compliance schedule progress reports must be signed by an authorized representative of the user.
- (c) Compliance schedules may also contain such other and additional requirements as might be reasonable necessary and appropriate to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. Furthermore, the Director may continue to require such additional self-monitoring for at least ninety (90) days after consistent compliance has been achieved, after which time the self-monitoring conditions in the discharge permit shall control.

5-6.707. CEASE AND DESIST ORDER.

The Director may issue a cease and desist order to any user who shows significant noncompliance or creates situations in which a discharge may pose a threat to the safety of the operation of the publicly owned treatment works or the collection system. The order ~~shall~~ **may require that all discharges to the sanitary sewer system cease or demand** immediate correction of the situation. **The order** ~~or~~ **may impose additional requirements as the Director deems necessary.** The order shall be enforceable in court.

5-6.708. TERMINATION OF SERVICE.

The ~~City, by order of the~~ Director, may physically terminate sewage service to any property as a term of any order of suspension or revocation of a permit. All costs for physical termination shall be paid by the permittee as well as all costs for reinstating service.

5-6.709. EMERGENCY SUSPENSION.

The ~~City may, by order of the~~ Director, **may** suspend sewage service or waste hauler discharge service when such suspension is necessary, in order to stop an actual or impending discharge which presents or may present an imminent or substantial endangerment of the health, safety, and welfare of persons, or to the environment, or may cause interference with the City's sewerage facilities, or may cause the City to violate any State or Federal law or regulation. An emergency suspension order is final and not appealable.

5-6.710. INJUNCTION.

Notwithstanding any other provision of this chapter, and in addition to and as an alternative to any other procedure prescribed herein, whenever a discharger of wastewater is in violation of or may potentially violate the provisions of this chapter, the discharger's permit conditions, or any Federal Pretreatment Standard or Requirement for dischargers, or fails to submit required reports or refuses to allow the City entry to inspect the premises, the City may petition the Superior Court for the issuance of an injunction to restrain the continued violation or to prevent violations by the discharger and to seek such other or additional remedies and civil penalties as may be authorized by law.

5-6.711. REVOCATION OF PERMIT.

Any user who performs the following actions, or who violates any condition of its permit, or who violates any applicable State and Federal regulations, may have its permit revoked:

- (a) Knowingly provides a false statement, representation, record, report, or other document to the City;
- (b) Refuses to provide records, reports, plans, or other documents required by the City to determine permit terms, conditions, or limitations, discharge compliance, or compliance with this chapter;
- (c) Falsifies, tampers with, or knowingly renders inaccurate any monitoring device or sample collection method;

- (d) Fails to report significant changes in operations or wastewater constituents and characteristics;
- (e) Fails to comply with the terms and conditions of a City cease and desist order or compliance schedule;
- (f) Refuses reasonable access to the users premises for the purpose of inspection and monitoring;
- (g) Does not make timely payment of all amounts owed to the City for user charges, noncompliance fees, or any other fees;
- (h) Discharges a batch dump to the City's sewerage system;
- (I) Discharges effluent that causes pass through or interference with the City's collection, treatment, or disposal system;
- (j) Fails to submit an oral notice and/or a written report of a spill or bypass occurrence;
- (k) Violates any condition or limitation of its discharge permit or any provision of this chapter.

5-6.712. CIVIL PENALTIES.

Any user who has violated or continues to violate this chapter, any order or permit hereunder, or any other pretreatment requirement shall be liable to the Director for a maximum civil penalty of twenty-five thousand dollars (\$25,000) 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.

- (a) The Director may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
- (b) In determining the amount of civil liability, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of damage caused by the violation, the magnitude and duration, any economic benefit gained through the industrial user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

- (c) Remedies under this section are in addition to and do not supersede or limit any and all other remedies, civil or criminal, but no liability shall be recoverable under this section for any violation for which liability is recovered under Section 5-6.704.

5-6.713. CRIMINAL PROSECUTION.

- (a) Any user who willfully violates or recklessly disregards any provision of this chapter, any orders or permits issued hereunder, or any other pretreatment requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000) per violation per day or imprisonment for not more than one (1) year or both.
- (b) Any user who knowingly makes any false statements, representations, or certifications in any application, record, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000) per violation per day or imprisonment for not more than one (1) year or both.
- (c) In the event of a second conviction, the user shall be punished by a fine not to exceed three thousand dollars (\$3,000) per violation per day or imprisonment for not more than three (3) years or both.

5-6.714. LIABILITY.

In the event that a user does not comply with the conditions and wastes are discharged to the POTW or collection system that causes, or threaten to cause, the water quality control plant's waste treatment facilities to malfunction or otherwise result in a violation of waste discharge requirements or limitations imposed by State or Federal regulatory agencies (~~40 CFR 403.8~~), the user shall be liable for any and/or all of the following:

- (a) To pay any and all monetary penalties, charges, fees, and other costs that may be imposed on the City by State or Federal regulatory agencies as a result of threatened or actual violation(s) or malfunction(s), including administrative and legal fees.
- (b) To pay any and all judgements and associated costs that may be awarded to individuals or entities as a result of threatened or actual violation(s) or malfunction(s).

- (c) To pay the total cost of any interim waste treatment measures that the Director may deem necessary to abate threatened or actual violation(s) or malfunction(s), including consulting and administrative fees.
- (d) To pay the total cost of providing waste treatment facilities needed to remedy threatened or actual violation(s) or malfunction(s).
- (e) To pay the total cost of any damage to the collection system or POTW which results from the users noncompliance with this chapter.

5-6.715. LIST OF SIGNIFICANT VIOLATORS.

The Director shall annually publish in a newspaper of general circulation in the Modesto area, a list of the industrial users who significantly violated applicable pretreatment requirements or standards at least once during the twelve (12) previous months. The notification shall also summarize any enforcement actions taken against the industrial user(s) during the same twelve (12) month period. A significant violation is defined in the enforcement response plan adopted by the City.

ARTICLE 8. COSTS AND FUNDING

5-6.801. SEWER BOND REDEMPTION CHARGES.

Each person owning property within the Sewer District shall pay a charge to the City for connection to the sewage system in accordance with the following rates:

- (a) **Residential.** A bond redemption charge shall be paid to the City for connection to the sewage system. Payment shall be made in accordance with a schedule approved by the Council from time to time by resolution.
- (b) **Commercial and Industrial.** A bond redemption charge shall be paid to the City for connection to the sewage system. Payment shall be made in accordance with a schedule approved by the Council from time to time by resolution. Churches shall pay a commercial bond redemption charge.
- (c) **Unconnected Standby Sewer Service Charges.** Properties which paid unconnected standby sewer charges prior to July 1, 1969, shall be exempt from sewer bond redemption charges.

A fee shall be paid to the City for the purpose of covering the cost of inspection of the premises to make determinations on the acreage to be covered by the bond redemption charge. Said fee shall be in accordance with a schedule approved by the Council from time to time by resolution. For those properties connected to the

sewage system whose zoning designation and/or use is changed from Residential to Commercial and Industrial or from Commercial and Industrial to Residential, a bond redemption charge equal to the difference, if any, between the current rate for the existing use and the current rate for the proposed use shall be paid to the City. If the current rate for the proposed use is less than the current rate for the existing use, the user shall not be entitled to a refund.

5-6.802. PAYMENT OF SEWER BOND REDEMPTION CHARGES.

- (a) The sewer bond redemption charge set forth in Section 5-6.801(a) shall be paid for connection to the sewage system at the time a building permit is issued for a building or structure. In those cases where a building exists, the sewer bond redemption charge shall be collected at the time a plumbing permit is issued to connect said building or structure to the sewage system. The Council may, by resolutions adopted from time to time, establish conditions under which the sewer bond redemption charges set forth in Section 5-6.801(a) may be spread over a period of time and paid in installments.
- (b) The sewer bond redemption charge set forth in Section 5-6.801(b) shall be paid for connection to the sewage system at the time connection is made or development occurs.

5-6.803. SUBTRUNK SEWER EXTENSION CHARGES.

- (a) **Residential and Commercial Areas.** Each person owning property within the Sewer District shall pay a subtrunk sewer extension charge to the City at the time of connecting to the sewage system. Payment shall be made in accordance with a schedule approved by the Council from time to time by resolution.
- (b) **Industrial Areas.** For industrial areas, the extension of subtrunk sewers will be on an individual basis for areas served since size of these subtrunk sewers is dependent upon specific need.

A fee shall be paid to the City for the purpose of covering the cost of inspection of the premises to make determinations on the acreage to be covered by the subtrunk extension charge. Said fee shall be in accordance with a schedule approved by the Council from time to time by resolution.

5-6.804. PAYMENT OF SUBTRUNK SEWER EXTENSION CHARGES.

Subtrunk sewer extension charges shall be paid at the time sewer service is made available to any subdivision, tract, area or lot in the Sewer District. In the case of

new subdivisions or parcel maps, this charge shall be paid at the time of filing the final subdivision or parcel map. The Council may, by resolutions or agreements adopted or entered into from time to time, establish conditions under which the subtrunk sewer extension charges set forth in Section 5-6.803 may be spread over a period of time.

5-6.805. CONSTRUCTION OF NEW SEWER LATERALS.

Any person within the Sewer District may connect his/her property to the City sewage system by construction of a new sewer main under one of the following methods and constructing building lateral connecting the property to a sewer main:

- (a) **By Improvement District Proceedings.** Sewer mains may be financed by the formation of assessment districts and sale of improvement bonds in accordance with existing State laws governing the formation of such districts and the sale of such bonds.
- (b) **By Private Contract: Undeveloped Land.** The owner of any undeveloped subdivision, tract, area or lot within the Sewer District may make private arrangements for the construction of sewer mains to serve such subdivision, tract, area or lot in accordance with plans and specifications prepared by a registered engineer and approved by the City, at his/her own expense, and by employing a licensed contractor to perform the work. The owner shall reimburse the City for costs incurred by it in the inspection of the work in accordance with a Schedule of Fees approved by the Council from time to time by resolutions and on file in the offices of the City Clerk and Public Works Director.
- (c) **By Private Contract: Developed Land.** The owner of any developed subdivision, tract, area or lot within the Sewer District may make private arrangements for the construction of sewer mains to serve such subdivisions, tract, area or lot in accordance with plans and specifications prepared by a registered engineer and approved by the City, or in accordance with plans and specifications prepared by the City Engineer and by employing a licensed contractor to perform the work. The owner shall reimburse the City for costs incurred by it for any preparation of plans and specifications and for inspection of the work in accordance with a Schedule of Fees approved by the Council from time to time by resolution and on file with the City Clerk and Public Works Director.

5-6.806. PARTICIPATION IN COST OF CONSTRUCTING SUBTRUNK SEWERS.

- (a) Whenever the City requires a design and construction of a sewer subtrunk beyond that which is required to serve a subdivision, improvement district, or area by itself, the City may provide the portion of the increased cost of constructing the sewer subtrunk directly resulting from such increased design. Said cost shall be determined by the Director in accordance with existing City policy governing reimbursement from Capital Facilities Fees, or any other source, as set forth in a resolution of the City Council.
- (b) Expenditures of funds by the City in accordance with the provisions of this section shall be on the basis that said expenditures will be recovered by the City from subtrunk sewer extension charges set forth in Section 5-6.803.

5-6.807. PARTICIPATION IN COST OF EXISTING SEWERS.

No property shall be permitted to connect to the City sewage system without participating in the cost of the sewer mains which serve the area where the property is located.

Any property connecting to the City sewage system that has not already participated in the cost of a sewer main and which is to be served by an existing sewer shall either make reimbursement, through the City, of the property's proportionate share of private funds expended on the existing sewer main in accordance with any agreements on file with the Director or shall pay to the City a fee which shall be in accordance with a schedule approved by the Council from time to time by resolution, whichever is the greater sum.

The acreage used to determine the sewer main fee shall be the total area developed or being developed which is owned, leased or controlled by the user.

In those instances where the total acreage owned, leased or controlled by the user is greater than that developed, the Director is authorized to determine the acreage to be used in determining the sewer main fee. The remaining acreage shall pay a sewer main fee at such time as it is developed.

Notwithstanding anything to the contrary contained in this chapter, the Council shall have the power to determine, by agreement, the total acreage developed or being developed which is owned, leased or controlled by a user meeting both the criteria set forth below:

- (a) The user will establish a new industry or expand an existing industry within the Modesto Municipal Sewer District that results in more than two hundred twenty-five (225) new, permanent, on-site, full-time employees;

- (b) The user will construct a new industrial building or building addition with total floor space in excess of one hundred seventy-five thousand (175,000) square feet with total project costs in excess of twenty million dollars (\$20,000,000).

If the property is developed beyond that development approved by the Council the developer shall pay a sewer main fee on the additional acreage developed. If the user fails to meet either of the criteria after development, the agreement shall be void and a sewer main fee shall be paid based on the total acreage developed or being developed had the above criteria not been applied.

5-6.808. LIEN.

Each sewer service charge, fee, and/or fine levied by or pursuant to this chapter on any premises within the Sewer District is hereby made a lien upon such premises, and any steps authorized by law may be taken by the City to enforce payment of such lien.

5-6.809. JUDICIAL REVIEW.

Unless the user given a notice of violation or order makes a timely responsive statement or a request for hearing, the notice or order is a final order. If a timely request for a hearing is made, the order constituting the hearing decision shall be a final order. Any person adversely affected by a final order may appeal the order to the appropriate court in the County of Stanislaus.

SECTION 2. SEVERABILITY. This chapter is severable. If any sentence, provision, paragraph, word or section of this chapter is invalidated by any court of competent jurisdiction, the remaining sentences, provisions, paragraphs, words, and sections shall not be affected and shall continue in full force and effect.

SECTION 3. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 4. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the

City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the _____ day of _____, 2005, by Councilmember _____, who moved its introduction and passage to print, which motion being duly seconded by Councilmember _____, was upon roll call carried and ordered printed and published by the following vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

APPROVED: _____
JIM RIDENOUR, Mayor

ATTEST:

By _____
JEAN ZAHR, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
MICHAEL D. MILICH, City Attorney