

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, AMENDING SECTIONS 6-302, 6-320, 6-321.1, SUBSECTION (c) OF SECTION 6-323, 6-327, SUBSECTION (g) OF SECTION 6-335, AND 6-336 OF THE FRESNO MUNICIPAL CODE, RELATING TO SEWAGE AND WATER DISPOSAL

WHEREAS, the City's Pretreatment Program prevents entry of pollutants into the Publicly Owned Treatment Works (POTW), to protect the sanitary collection system and wastewater treatment facilities; and

WHEREAS, the Fresno Municipal Code (FMC) Chapter 6, Article 3 related to Sewage and Water Disposal provides the legal authority as prescribed by the United State Environmental Protection Agency (US EPA) to carry enforcement of the City's Pretreatment Program; and

WHEREAS, the 2016 Pretreatment Compliance Inspection by US EPA resulted in required and recommended revisions to the City's Pretreatment Program and the corresponding FMC provisions.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 6-302 of the Fresno Municipal Code is amended to read as follows:

SECTION 6-302. - DEFINITIONS.

Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this section shall govern the

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Date Adopted:

Date Approved

Effective Date:

City Attorney Approval: 

Ordinance No.

construction, meaning, and application of words and phrases used in this article and, except to the extent that a particular word or phrase is otherwise specifically defined in this section, the definitions and provisions contained in Article 3 of Chapter 1 of this Code shall also govern the construction, meaning, and application of words and phrases used in this article, unless the particular provision or the context otherwise requires. The definition of each word or phrase shall constitute, to the extent applicable, the definition of each word or phrase which is derived from it, or from which it is a derivative, as the case may be.

(a)

(1) The following Abbreviations shall have the designated meanings:

CWA	Clean Water Act as Amended (33 U.S.C. §§1251 et seq.)
C.F.R. [<u>or CFR</u>]	Code of Federal Regulations
EPA	Environmental Protection Agency
L	Liter
mg	Milligrams
mg/L	Milligrams per liter
POTW	Publicly Owned Treatment Works
SIC	Standard Industrial Classification
SWDA	Solid Waste Disposal Act (42 U.S.C. §§6901 et seq.)
U.S.C. [<u>or USC</u>]	United States Code

(2) "Act" or "the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act of 1977, as amended (33 U.S.C. §§1251 et seq.).

(3) "Approval Authority" means the California Regional Water Quality Control Board, Central Valley Region.

(4) "Authorized Representative of Industrial User" means:

(i) A responsible corporate officer, if the industrial user is a corporation. A responsible corporate officer means:

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

2. the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary

systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(ii) a general partner or proprietor, if the industrial user is a partnership or sole proprietorship, respectively;

(iii) a duly authorized representative of the individual designated in Subsection (a)(4)(i) or (a)(4)(H)~~[(ii)]~~, provided:

1. the authorization is made in writing by the individual designated in Subsection (a)(4)(i) or (a)(4)(ii);

2. the authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the indirect discharge originates, or having overall responsibility for environmental matters for the company; and

3. the written authorization is submitted to the Control Authority.

(iv) If an authorization under Subsection (a)(4)(iii) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of Subsection (a)(4)(iii) must be submitted to the Control Authority prior to or together with any reports to be signed by an authorized representative.

(b)

(1) "Best Management Practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the general prohibitions, specific prohibitions, and local limits listed in this Code. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(2) "Biochemical Oxygen Demand" or "BOD" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under Standard Laboratory Procedure in five days at twenty degrees Centigrade, expressed in milligrams per liter (mg/L).

(3) "Biosolids" or "sludge" means a primarily organic solid product produced by wastewater treatment processes that can be beneficially recycled.

(4) "Building" means any structure used or intended for supporting or sheltering any use or occupancy as determined by the Director.

(5) "Business" means all commercial uses, including but not limited to offices, merchandising and industrial uses, and residential uses on premises where there are four or more living units or where unrelated persons are housed in the same structure, such as boarding or, fraternity houses, assisted care facilities, motels or hotels, or as determined by the Director.

(c)

(1) "Capital Component" refers to a component of the user charge used to recover the cost to construct treatment facilities, pump, or lift stations, and trunk sewer mains. In all cases, 100 percent of the capital component is due from each connection served by the regional wastewater system regardless of primary service provider. The City of Clovis is excepted.

(2) "Categorical Pretreatment Standard" or "Categorical Standard" means any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. §1317) which apply to a specific category of users and which appear in 40 C.F.R. Chapter I, Subchapter N, Parts 401-471.

(3) "City" means the City of Fresno.

(4) "City Effluent Limitations" means the technically-based limits, expressed either as concentration or as mass, of those pollutants found in Section 6-327 of this article.

(5) "City Sewer System" means all facilities for collecting and transporting domestic or industrial wastes of any nature, including all such facilities both inside and outside the city limits which are owned, operated and controlled by the city.

(6) "Commercial User" means all retail stores, restaurants, office buildings, laundries, and other private business and service establishments, including churches and lodges. These users are distinguished from industrial users for billing purposes only.

(7) "Completion" means acceptance, in writing, by the Director for maintenance of an addition to the city sewer system.

(8) "Compliance Schedule" means a detailed time schedule of specific actions which a user is required to take in order

to prevent or correct a violation of any prohibitions or limitations prescribed herein or any of the city's effluent limitations or pretreatment standards promulgated in accordance herewith.

(9) "Connected" means a physical joinder of any plumbing or drainage system or fixture contained in any structure to the regional sewer system.

(10) "Control Authority" means the City of Fresno Department of Public Utilities and Wastewater Management Division and its representatives or designees.

(11) "Cooling Water" means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

(12) "Customer" means a person who is, or who has agreed to be, responsible for the payment of water or sewer service charges. "Customer" is also synonymous with "account," against which charges are assessed and billed.

(d)

(1) "Director," unless otherwise specified, means the Director of the Department of Public Utilities and/or his/her authorized representative.

(2) "Dwelling Unit" means the same as living unit.

(e)

(1) "Enforcement Response Plan" or "ERP" means the mechanism for addressing applicable local, State, or federal violations. The ERP includes a written description of each type of enforcement, when to administer it, and how the monitoring schedule is affected. In conjunction with the written description, there may be an Enforcement Response Plan flow chart which maps out the path through the various levels of enforcement.

(2) "Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency. Where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of said agency.

~~(3) "Existing Food Service Establishment" or "Existing FSE" shall mean any Food Service Establishment that has been in continuous operation since before the effective date of this ordinance under the same ownership.~~

(4) "Extra Depth Sewer" means an oversize sewer main which is constructed at a depth greater than eight feet. Eight feet shall mean the average of depths, measured at adjacent manholes, from the natural grade or street subgrade, whichever is less, to the sewer flow line.

(f)

(1) "FOG" shall mean fats, oils and grease.

(2) ~~"Food Service Establishment" ["FOG Control Program"] or "FSE"["FOG Ordinance"] means any facility defined in California Uniform Retail Food Service Establishments Law (CURFFL) Section 113785, and any commercial entity discharging into the city sewer system and is consequently regulated by the Control Authority, either directly or indirectly through a Joint Powers Agreement, operating in a permanently constructed structure such as a room, building, or place, or portion thereof, maintained, used, or operated for the purpose of storing, preparing, serving, or manufacturing, packaging, or otherwise handling food for sale to other entities, or for consumption by the public, its members or employees, and which has any process or device that uses or produces FOG, or grease vapors, steam, fumes, smoke or odors that are required to be removed by a mechanical exhaust ventilation system, as required in CURFFL Section 114296. A limited food preparation establishment is not considered a Food Service Establishment when engaged only in reheating, hot holding or assembly of ready to eat food products and as a result, there is no wastewater discharge containing a significant amount of FOG. A limited food preparation establishment does not include any operation that changes the form, flavor, or consistency of food.~~[the section of this Code under the City of Fresno's Pretreatment Program to reduce Sanitary

Sewer Overflows and blockages of the sanitary sewer system caused by fats, oils and grease. The FOG Ordinance is in Section 6-321.1 of this Code, listing definitions, specific discharge prohibitions and Best Management Practices for the handling of FOG.]

(g)

(1) "Grab Sample" means a sample which is taken from a waste stream on a one-time basis, with no regard to the flow in the waste stream, and without consideration of time.

~~(2) "Grease Interceptor" means a multi-compartment device that is constructed in different sizes and is generally required to be located, according to the California Plumbing Code, underground between a Food Service Establishment and the connection to the sewer system. This device primarily uses gravity to separate FOG from the wastewater as it moves from one compartment to the next. This device must be cleaned, maintained, and have the FOG removed and disposed of in a proper manner at regular intervals to be effective.~~

~~(3) "Grease Removal Device" means any grease interceptor, grease trap or other mechanism, device, or process, which attaches to, or is applied to, wastewater plumbing fixtures and lines, the purpose of which is to trap or collect or treat FOG prior to it being discharged into the sewer system. Grease Removal~~

~~Device may also include any other proven method to reduce FOG subject to the approval of the Director. A grease removal device is a form of pretreatment and as such is subject to all regulations pertaining to the installation and maintenance of pretreatment systems as recognized in this Article and in the General Pretreatment Regulations (40 C.F.R. §403).~~

~~(4) "Grease Trap" means a grease control device that is used to serve individual fixtures and have limited effect and should only be used in those cases where the use of a grease interceptor or other grease removal device is determined to be impossible or impracticable.~~

(h)

(1) "Holding Tank Waste" means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

~~(2) "Hot spots" means areas in sewer lines that have experienced Sanitary Sewer Overflows or that must be cleaned or maintained frequently to avoid blockages of the sewer system.~~

~~(3)~~(2) "House Branch Sewer Charge" means a fee charged against property for the right to connect to a house branch sewer line, when the property has not participated in the cost of constructing said house branch.

(i)

(1) "Improvement" means that which is built or constructed, an edifice of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. For the purpose of this article, this definition shall not include "building" as defined above and temporary on-site storm basins, but shall include the playing area of any non-enclosed sport facility or restricted sport field.

(2) "Indirect Discharge" or "Discharge" means the discharge or the introduction of pollutants into a POTW from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act (33 U.S.C. §§ 1317(b), (c), or (d)).

(3) "Industrial User" or "User" means a source of indirect discharge.

(4) "Industrial Wastes" means the liquid wastes from industrial processes as distinct from sanitary sewage.

(5) "Interference" means a discharge which, alone or in conjunction with a discharge or discharges from other sources:

(i) Inhibits or disrupts the POTW, its treatment processes or operations, or sludge processes, use or disposal; or

(ii) Is a cause of a violation of any requirement of the POTW's Waste Discharge Requirements (including an

increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act (33 U.S.C. §1345); the Solid Waste Disposal Act (SWDA), including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

(j) Reserved.

(k) Reserved.

(l)

(1) "Lateral Sewer Charge" means a fee charged against property for the right to connect to the public sewer line city sewer system where the property has not participated in the cost of constructing said line sewer mains.

(2) "Living Unit" means a room or suite of rooms which is occupied by one family for living and sleeping purposes, including a single-family residence, mobile home unit, apartment, town house, flat or condominium.

(3) "Living Unit Equivalent" means the equivalence of five (5) living units to one net acre of nonresidential development to compute the availability of the regional sewer system to a premises for the purpose of required connection to the regional sewer system.

(4) "Lot" means any premises, piece or parcel of land or property as bounded, defined or shown upon the latest map, plat or deed recorded in the office of the Recorder of Fresno County, provided, however, that in the event any building or improvements appurtenant to said building cover more area than a "lot," as herein defined, the term "lot" shall be deemed to be and include all such pieces or parcels of land upon which said buildings or improvements are wholly or partly located.

(m) Reserved.

(n)

(1) "Net Area," for the purpose of calculating the Lateral Sewer Charge and the Oversize Sewer Charge, shall be that area of a lot up to a maximum depth of 100 feet from adjacent dedicated right-of-way in which a regional sewer system sewer main is either constructed or planned to be constructed. Net area shall exclude areas dedicated or condemned for public street and alley purposes. Where such main is not located in an existing dedicated right-of-way, or for lots within cul-de-sacs unified or planned developments,

or other unusual lot configurations, the Director shall determine the net areas consistent with the above.

~~(2) "New Food Service Establishments" or "New FSE" shall mean any Food Service Establishment that starts operations after the effective date of the FOG Ordinance regardless whether in a newly constructed building, a remodeled building or using an existing building or space.~~

~~(3)~~(2) "New Source" means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated, and in accordance with that section, provided that:

(i) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

(ii) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially

independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(o)

(1) "Off-site Sewer" means a public sewer constructed or to be constructed outside the extended boundaries of a subdivision or outside the extended edges of a lot.

(2) "Open Recreation and Sport Use" means, but is not limited to, golf courses, baseball diamonds, soccer and football fields, non-enclosed sport stadia, and any other restricted sports field. For the purpose of this article, the open recreation and sport use facilities must:

(i) Be accessible to the general public on a free or standard fee basis;

(ii) Comprise at least seventy-five percent (75%) of the net land area of the development as determined by the Director;

(iii) Be situated on a separate parcel or parcels which do not include facilities unrelated or incompatible with such use, as determined by the Director; and,

(iv) Be substantially improved and maintained with turf or surface conditions consistent with such use.

(3) "Operations and Maintenance Component" or "O&M" refers to a component of the user charge used to recover costs associated with the maintenance of the POTW.

(4) "Oversize Sewer Charge" means a fee for the right to connect to the city sewer system, said fee to be used to pay the additional cost of constructing or reconstructing city sewers larger than eight inches in diameter.

(p)

(1) "Pass Through" is a discharge which exits the POTW in quantities or concentrations, which alone or in conjunction with a discharge or discharges from other sources, is a cause of violation of any requirement of the POTW's waste discharge requirements (including an increase in the magnitude or duration of a violation) or threatens, or is a potential threat, to pollute or degrade groundwater.

(2) "Person" means any individual, partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity or their legal representatives or agents. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

(3) "pH" means the [negative] logarithm (base 10) of the ~~reciprocal of the concentration of~~ hydrogen ions

[concentration] expressed in ~~gram equivalents~~ [moles] per liter of solution [of hydrogen ions].

(4) "Pollutant" means any dredge soil, solid waste, incinerator residue, sewerage, garbage, sewage sludge, biosolids, munitions, wood products and wastes, chemicals, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, commercial, municipal, and agricultural waste discharged into water.

(5) "Pollution" means the man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

(6) "Premises" means all contiguous property under one ownership, any part of which is developed to be used for occupancy, business, public gathering or meeting place purposes.

(7) "Pretreatment" and "Treatment" means 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 pollutants into 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 C.F.R. §403.6(d). Appropriate pretreatment

technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 C.F.R. §403.6(e).

(8) "Pretreatment Requirement" means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.

(9) "Pretreatment Standards" or "Standards" means prohibited discharge standards, categorical pretreatment standards, and local limits.

(10) "Prohibited Discharge Standards" or "Prohibited Discharges" means absolute prohibitions against the discharge of certain substances; these prohibitions appear in 40 C.F.R. §403.5 and in Section 6-327 of this Article.

(11) "Publicly Owned Treatment Works" or "POTW" means a treatment works as defined by Section 212 of the Act (33 U.S.C. §§ 1292 (2)(A)), which is owned by the municipality (as defined by Section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation

of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances (also referred to as the city sewer system) only if they convey wastewater to a POTW treatment plant. The term also means the municipality, as defined in Section 502(4) of the Act (33 U.S.C. §§ 1362(4)), which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

(12) "POTW Treatment Plant" or "Treatment Plant" means that portion of the POTW designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

(q) Reserved.

(r)

(1) "Regional Sewer System" means all facilities for collecting and transporting domestic or industrial wastes of any nature, including all such facilities both inside and outside the city limits regardless of whether they are owned, operated or controlled by the city, but not including those facilities owned and operated by the City of Clovis.

(2) "Remodel" shall mean any construction or other activity to make over a building, interior or exterior, in style or structure that costs fifty thousand dollars (\$50,000) or more in total costs.

(s)

(1) "Sanitary Sewer Overflow" or "SSO" means an overflow from the sanitary sewer system of domestic wastewater, as well as industrial and commercial wastewater.

(2) "Sewer Connection Charges" means and includes the "oversize sewer charge," "lateral sewer charge," "house branch sewer charge," which may be applicable to any lot, "wastewater facilities charge," which may be applicable to any residential lot, and "trunk sewer charge," which is applicable to any residential lot within a designated trunk sewer service area.

(3) "Sewer Facility Charges" means a user charge that includes the "wastewater facilities charge," which may be applicable to any business, and the "trunk sewer charge," which may be applicable to any business within a designated trunk sewer service area.

(4) "Sewer Flow" means the average daily flow introduced into the regional sewer system from a business during a billing period.

(5) "Sewer Loading" means the amount of total suspended solids and biochemical oxygen demand in a wastewater sample.

(6) "Sewer Service Charges" means a user charge which is comprised of a capital component, and an operational and

maintenance component and, a pretreatment surcharge as designated in the Master Fee Schedule.

(7) "Shall" is mandatory, and "may" is permissive.

(8) "Significant Industrial User"

(i) Except as provided in Subdivision (s)(8)(iii) the term "Significant Industrial User" means:

1. all industrial users subject to categorical pretreatment standards under 40 C.F.R. §403.6[, also referred to as categorical industrial users (CIUs)];

2. any other industrial user that discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

3. any industrial user that contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW;

4. any industrial user designated as such by the Control Authority on the basis that the industrial user has reasonable potential of adversely affecting the POTW operation or for violating any pretreatment standard or requirement.

(ii) The Control Authority may determine that an industrial user subject to categorical pretreatment standards under 40 C.F.R. §403.6 and 40 C.F.R. chapter I, subchapter N is a non-significant categorical industrial user [(NSCIU)] rather than a ~~[S]significant [I]industrial [U]user~~ on a finding that the industrial user never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

1. the industrial user, prior to Control Authority's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;

2. the industrial user annually submits the certification statement required in 40 C.F.R. §403.12(q) together with any additional information necessary to support the certification statement; and

3. the industrial user never discharges any untreated concentrated wastewater.

(iii) Upon finding that an industrial user meeting the criteria of Subparts (8)(i)2-4 has no reasonable potential for adversely affecting the POTW's operation or for violating any

pretreatment standard or requirement, the Control Authority may at any time determine that such industrial user is not a [S]significant [I]industrial [U]user.

(9) "Significant Noncompliance" means a compliance status in which an industrial user has a violation which meets one or more of the following criteria:

(i) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits;

(ii) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, FOG, and 1.2 for all other pollutants except pH);

(iii) Any other violation of a pretreatment standard or requirement (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Control

Authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

(iv) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 C.F.R. §403.8(f)(1)(vi)(b) or Section 6-324 of the this Code to halt or prevent such a discharge;

(v) Failure to meet, within ninety (90) days after the scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(vi) Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

(vii) Failure to accurately report non-compliance;

(viii) Any other violation or group of violations, which may include a violation of Best Management Practices,

which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

(10) "Slug" or "Slug Load" means any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge.

(11) "Standard Industrial Classification" or "SIC" means a classification pursuant to the latest published edition of the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget.

(12) "Standard Methods" or "Standard Laboratory Procedure" means the EPA approved procedure outlined in the latest edition approved by the EPA of the book, "Standard Methods for the Examination of Water and Wastewater," published jointly by the American Public Health Association, the American Water Works Association, and the Water Environment Federation.

(13) "State" means the State of California.

(14) "Storm Water" means any flow occurring during or following any form of natural precipitation and resulting therefrom.

(t)

(1) "Total Suspended Solids" or "TSS" means the total suspended matter that floats on the surface of, or is suspended in,

wastewater and which is removable by laboratory filtering as prescribed by Standard Methods.

(2) "Toxic Pollutant" means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the EPA under the provision of Section 307(a) of the Act (33 U.S.C. §1317(a)), or other acts.

(3) "Trunk Sewer Charge" means a sewer flow-based capacity charge for the right to connect to the city sewer system. The charge shall be used for the purpose of constructing or recovering such cost for construction of new sewer pipelines thirty inches in diameter or larger. Trunk Sewer Charges shall be collected from all residential development pursuant to Subsection 6-304(a)(5), and for all businesses pursuant to Section 6-310.

(4) "Trunk Sewer Main" means a public sewer main thirty inches in diameter or larger constructed to collect and transport domestic or industrial wastes of any nature to the POTW treatment plant or to another trunk sewer main transporting such wastes to the treatment plant.

(5) "Trunk Sewer Service Areas" means those areas established by resolution of the Council served by a trunk sewer main and subject to trunk sewer charges.

~~(6) "Twenty-five percent (25%) Rule" means a requirement for grease interceptors to be maintained such that the~~

~~combined FOG and solids accumulation does not exceed twenty-five percent of the design hydraulic depth of the grease interceptor.~~

(u)

(1) "Unit" means a living unit as defined herein for residential uses, or living unit equivalent for other than residential uses.

(2) "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards or city effluent limitations because of factors beyond the reasonable control of an industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

(v) Reserved.

(w)

(1) "Wastewater Discharge Permit" or "Control Mechanism" means the mechanism by which new or increased contributions of pollutants, or changes in the nature of pollutants, to the regional sewer system by industrial users, may be controlled to ensure compliance with applicable pretreatment standards, pretreatment requirements, or city effluent limitations.

(2) "Wastewater Facilities Charge" means a sewer flow and sewer loading based charge for the right to connect to the regional sewer system. The charge shall be used for the purpose of recovering the cost of constructing or construction of facilities at the POTW treatment plant.

(x) Reserved.

(y) Reserved.

(z) Reserved.

SECTION 2. Section 6-320 of the Fresno Municipal Code is amended to read as follows:

SECTION 6-320. – EMERGENCY SLUG CONTROL AND RESPONSE PLAN.

(a) ~~Biennial Evaluation. At least once every two (2) years, t~~he Control Authority shall evaluate whether each ~~[S]significant [I]industrial [U]user needs an Emergency Slug Control and Response P~~lan ~~[or other action to control slug discharges. For industrial users identified as significant prior to November 14, 2005, this evaluation must have been conducted at least once by October 14, 2006; additional Significant Industrial Users must be evaluated within one (1) year of being designated a Significant Industrial User]. The Control Authority may require any user to develop, submit for approval, and implement such a plan. Alternatively, the Control Authority may develop such a plan for any user.~~

(b) Information Required. An Emergency Slug Control and Response Plan shall address, at a minimum, the following:

- (1) Description of all discharge practices;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the Control Authority of slug discharges, including any discharge that would violate a prohibition under 40 C.F.R. 403.5(b), with procedures for follow-up written notification within five (5) days;
- (4) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

SECTION 3. Section 6-321.1 of the Fresno Municipal Code is amended to read as follows:

SECTION 6-321.1. - FATS, OILS, & GREASE (FOG) CONTROL PROGRAM.

(a) Title. This section shall be referred to as the "City of Fresno FOG Control Program Ordinance" or "FOG Ordinance."

(b) Purpose. The purpose of the FOG Ordinance is to reduce Sanitary Sewer Overflows and blockages, and to protect public health and

the environment by minimizing public exposure to unsanitary conditions. By controlling the discharge of fats, oils and grease to the wastewater collection system, excessive buildup in sewer lines can be lessened, thereby increasing the system's operating efficiency and reducing the number of sewer line blockages and overflows.

[(c) Definitions. For purposes of this section,

(1) "Food Service Establishment" or "FSE" means any facility defined in California Uniform Retail Food Service Establishments Law (CURFFL) Section 113785, and any commercial entity discharging into the city sewer system and is consequently regulated by the Control Authority, either directly or indirectly through a Joint Powers Agreement, operating in a permanently constructed structure such as a room, building, or place, or portion thereof, maintained, used, or operated for the purpose of storing, preparing, serving, or manufacturing, packaging, or otherwise handling food for sale to other entities, or for consumption by the public, its members or employees, and which has any process or device that uses or produces FOG, or grease vapors, steam, fumes, smoke or odors that are required to be removed by a mechanical exhaust ventilation system, as required in CURFFL Section 114296. A limited food preparation establishment is not considered a Food Service Establishment when engaged only in reheating, hot holding or assembly of ready to eat food products and as a result, there is no wastewater discharge containing a significant amount of FOG. A limited food

preparation establishment does not include any operation that changes the form, flavor, or consistency of food.

(2) “Food Service Establishment, Existing” or “Existing FSE” means any Food Service Establishment that has been in continuous operation since before the effective date of this ordinance under the same ownership.

(3) “Grease Interceptor” means a plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept nonpetroleum fats, oils, and grease (FOG) from a wastewater discharge. Grease interceptor is a general term used to include gravity grease interceptors, grease removal devices and hydro-mechanical grease interceptors.

(i) “Gravity Grease Interceptor” means a plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept nonpetroleum fats, oils, and grease (FOG) from a wastewater discharge and is identified by volume, 30 minute retention time, baffle(s), not less than two compartments, a total volume of not less than 300 gallons (1135 L), and gravity separation. Gravity grease interceptors are generally installed outside the facility.

(ii) “Grease Removal Device” means a hydromechanical grease interceptor that automatically, mechanically removes nonpetroleum fats, oils and grease

(FOG) from the interceptor, the control of which is either automatic or manually initiated.

(iii) “Hydro-mechanical Grease Interceptor” means a plumbing appurtenance or appliance that is installed in a sanitary drainage system to intercept nonpetroleum fats, oils, and grease (FOG) from a wastewater discharge and is identified by flow rate, and separation and retention efficiency. The design incorporates air entrainment, hydromechanical separation, interior baffling, or barriers in combination or separately, and one of the following:

a. External flow control, with air intake (vent), directly connected;

b. External flow control, without air intake (vent) directly connected;

c. Without external flow control, directly connected;

d. Without external flow control, indirectly connected.

Hydro-mechanical grease interceptors are generally installed inside the facility.

(4) “Hot spots” means areas in sewer lines that have experienced Sanitary Sewer Overflows or that must be cleaned or maintained frequently to avoid blockages of the sewer system.]

~~(e)~~(d) General FOG Discharge Prohibitions. No Food Service Establishment shall discharge or cause to be discharged into the sewer system FOG that may accumulate and/or cause or contribute to blockages in the sewer system or at the sewer lateral which connects the Food Service Establishment to the sewer system.

~~(d)~~(e) Specific FOG Prohibitions. The following specific prohibitions shall apply to all Food Service Establishments:

(1) Discharge of any FOG-containing wastewater that is not connected to a grease ~~removal device~~ [interceptor] is prohibited, unless a waiver has been granted in accordance with Subsection ~~(4)~~(m).

(2) Non-grease laden sources such as, but not limited to, hand-wash sinks, toilets, urinals, and stormwater, shall not be connected to a grease ~~removal device~~ [interceptor].

(3) No dishwasher shall be connected to a [hydro-mechanical] grease ~~trap~~ [interceptor].

(4) Discharge of wastewater with temperatures in excess of 140° F (60° C) into any [hydro-mechanical] grease ~~trap~~ [interceptor] is prohibited.

(5) Garbage disposals (food grinders) shall be prohibited at all New Food Service Establishments. Existing Food Service Establishments shall remove all garbage disposals when they remodel or within one hundred eighty (180) days from receiving a

notice from the Director to remove its garbage disposal(s) based on the Director's finding that the FSE at any time caused or contributed to an SSO.

(6) Direct disposal of any waste cooking oil into any drain or cleanout that is connected to the sewer system is prohibited.

(7) Introduction of any additive into a grease ~~removal device~~ [interceptor] or directly into the sewer system for the purpose of emulsifying FOG, biologically/chemically treating FOG for grease remediation, or as a supplement to any grease ~~removal device~~ [interceptor] maintenance is prohibited, unless specifically authorized in writing by the Director.

(8) Discharge of any waste which has been removed from a grease ~~removal device~~ [interceptor] into the sewer system is prohibited.

~~(e)~~[(f)] FOG Wastewater Discharge Permit Required. All Food Service Establishments shall obtain a FOG Wastewater Discharge Permit. Nothing in the permit is intended to relieve the Food Service Establishment of any local, state, or federal regulation. Any denial of a permit may be appealed ~~under~~ [following the procedure set forth in] Chapter 1, Article 4 [of this Code].

~~(f)~~[(g)] Permit Application Requirements. [New Food Service Establishments may be required to complete a wastewater

discharge permit application.] FOG Wastewater Discharge Permit

Applications shall include the following information:

(1) Name, address, telephone number, description of the Food Service Establishment and service activities.

(2) Name of any and all principals/owners of the Food Service Establishment.

(3) Name and address of property owner or lessor and the property manager where the Food Service Establishment is located.

(4) Floor, site and plumbing plans showing detailed sewer connections and grease ~~removal devices~~ [interceptors].

(5) Specifications of all grease ~~removal devices~~ [interceptors].

(6) Operational statement of [the] F[ood] S[ervice] E[stablishment].

(7) Any other information as may be specified in the application form.

~~(g)~~(h) FOG Wastewater Discharge Permit Conditions.

(1) FOG Wastewater Discharge Permits must contain the following:

(i) A statement that indicates the wastewater discharge permit duration.

(ii) A statement that the wastewater discharge permit is nontransferable.

(iii) A statement of applicable civil and criminal penalties for violation of permit and FOG ordinance.

(2) FOG Wastewater Discharge Permits may contain the following conditions or limits if found necessary to meet the intent of this Ordinance by the Director:

(i) Limits on discharge of FOG and other pollutants.

(ii) Requirements to install, operate, and maintain adequate pretreatment devices including grease ~~removal devices~~ [interceptors].

(iii) Requirements for proper operation and maintenance of all pretreatment devices.

(iv) Grease ~~removal device~~ [interceptor] maintenance frequency and schedule.

(v) Requirements for implementing, maintaining, and reporting on the status of Best Management Practices.

(vi) Requirements for maintaining and submitting logs and records, including waste hauling records and manifests and to have such records available for inspection.

(vii) Requirements to self-monitor.

(viii) Additional requirements as may be determined to be reasonably appropriate by the Director or as specified by other Regulatory Agencies to protect the collection system.

(ix) Other terms and conditions, which may be reasonably applicable to ensure compliance with the FOG Control Program.

~~(h)~~(i) FOG Wastewater Discharge Permit Modifications. FOG Wastewater Discharge Permit modifications are subject to Section 6-335(h) of this Article consistent with the terms, requirements and policies in this section.

~~(h)~~(i) Best Management Practices. All Food Service Establishments shall implement Best Management Practices (BMPs) in an effort to minimize the discharge of FOG to the sewer system, including, but not limited to, the following, as applicable:

(1) Installation of Drain Screens. Drain screens shall be installed on all drainage pipes in food preparation areas.

(2) Segregation and Collection of Waste Cooking Oil. All waste cooking oil shall be collected and stored properly in recycling receptacles such as barrels or drums. Such recycling receptacles shall be maintained properly to insure that they do not leak. Licensed waste haulers or an approved recycling facility must be used to dispose of waste cooking oil.

(3) Disposal of Food Waste. All food waste should be disposed of directly into the trash or garbage and not into sinks and shall be disposed of in a manner that will ensure against leakage in the trash container or anywhere else.

(4) Employee Training. Employees of the Food Service Establishment shall be trained by ownership/management periodically as specified in the FOG wastewater discharge permit on the following subjects:

(i) Dry-wiping pots, pans, dish ware and work areas before washing to remove grease.

(ii) Properly disposing food waste and solids in plastic bags prior to disposal in trash bins or containers to prevent leaking and odors.

(iii) The location and use of absorption products to clean under fryer baskets and other locations where grease may be spilled or dripped.

(iv) Properly disposing grease or oils from cooking equipment into a proper grease receptacle without spilling.

~~Training shall be documented along with employee signatures. Training records shall be available for review at any time by authorized representatives of the city.~~

(5) Maintenance of Mechanical Exhaust Ventilation Filters. Filters shall be cleaned as frequently as necessary to be

maintained in good operating condition. The wastewater generated from cleaning exhaust filters shall be disposed of properly.

(6) Kitchen Signage. Best management and waste minimization practices shall be posted conspicuously in the food preparation and dishwashing areas at all times.

~~(j)~~(k) FOG Pretreatment Required for New and Existing Food Service Establishments. Food Service Establishments are required to install, operate and maintain an approved type and adequately sized [gravity] grease interceptor necessary to maintain compliance with the objectives of this section, subject only to the variance and waiver provisions and other exceptions of this section. The [gravity] grease interceptor shall be adequate to separate and remove FOG contained in wastewater discharges from Food Service Establishments prior to discharge to the sewer system. Fixtures, equipment, and drain lines located in the food preparation and cleanup areas of Food Service Establishments that are sources of FOG discharges shall be connected to the [gravity] grease interceptor.

(1) New Food Service Establishments shall include and install [gravity] grease interceptors prior to commencing discharges of wastewater to the sewer system.

(2) Existing Food Service Establishments shall install [gravity] grease interceptors in any of the following circumstances:

(i) When the FSE changes ownership;

(ii) When any change in operation results in or has the potential to result in the increase of the amount of FOG generated and/or discharged by [the] FSE in an amount that alone or collectively causes or creates a potential SSO to occur;

(iii) When it is determined by the Director that the FSE caused or contributed to grease-related blockages in the sewer system, has sewer laterals connected to hot spots, or has been determined to contribute significant FOG to the sewer system, based on inspection and sampling;

(iv) During a remodel;

(v) Any other time the Director reasonably determines that installation of a grease interceptor is necessary to avoid an adverse impact to the sewer system.

(3) Any Existing FSE that receives a notice from the Director to install a [gravity] grease interceptor must install the interceptor within 180 days unless otherwise required by the Director.

~~(k)~~[(l)] Variance of [Gravity] Grease Interceptor Requirement.

Notwithstanding any other provision in this section, an Existing FSE may obtain a variance, at the Director's discretion, from the [gravity] grease interceptor requirement to allow alternative pretreatment technology that is

equally effective in controlling the FOG discharge in lieu of a [gravity] grease interceptor.

~~One such type of alternative pretreatment technology is a grease trap. Consideration of granting the variance will be based on the following:~~

~~(1) There is insufficient space for installation and/or maintenance of a grease interceptor.~~

~~(2) There is inadequate slope for gravity flow between kitchen plumbing fixtures and the grease interceptor and/or between the grease interceptor and the private collection line or the public sewer.~~

~~(3) The FSE can demonstrate, to the satisfaction of the Director, that the alternative pretreatment technology is equivalent or better than a grease interceptor in controlling FOG. In addition, the FSE must be able to demonstrate, after installation of the proposed alternative pretreatment technology, its continued ability to effectively control FOG discharge.~~

The variance may be rescinded if subsequent monitoring shows accumulation of FOG in the sewer lateral or the collection system downstream of the Food Service Establishment's connection or if the Food Service Establishment caused or contributed to a Sanitary Sewer Overflow. A [gravity] grease interceptor must be installed within 180 days of the rescission of a variance. Denial or revocation of a variance may be appealed pursuant to Chapter 1, Article 4 [of this Code].

~~(+)~~(m) Waiver from Grease Removal Device [Interceptor] Requirement. When granting a variance is not possible because the installation of a grease interceptor is not feasible and no equivalent alternative pretreatment can be implemented, an FSE may apply for and be granted a conditional waiver with the imposition of line maintenance cost recovery charges as established in the Master Fee Schedule. An FSE requesting a waiver must demonstrate that it has negligible FOG discharge and insignificant impact to the sewer system. Although a waiver may be granted, the Director may impose additional requirements including, but not limited to, the requirement to provide space and plumbing segregation for future installation of a grease interceptor. Denial or revocation of a waiver may be appealed pursuant to Chapter 1, Article 4.

~~(+)~~(n) Cost Recovery. All costs incurred for cleaning the sewer line to remove FOG buildup caused or contributed to by an FSE shall be reimbursed to the city by the FSE. Factors for determining responsible parties for cost recovery charges include the FSEs that are discharging into the affected sewer line, the presence of ~~grease removal devices~~ [interceptors] or alternative pretreatment in the FSE, proper maintenance of ~~grease removal devices~~ [interceptors] by the FSE, implementation of BMPs, and any waivers or variances granted.

~~(a)~~(o) Drawing Submittal Requirements. At the time of obtaining a FOG Wastewater Discharge Permit or upon request by the Director:

(1) FSEs may be required to submit copies of design and as-built facility site plans, mechanical and plumbing plans and details to show all sewer locations and connections. The documents shall be in a form acceptable to the Director for review of existing grease control devices [interceptors], monitoring facilities, metering facilities and operating procedures. The review of plans and procedures shall in no way relieve the FSE of the responsibility to modify the facilities or procedures in the future, as necessary to produce an acceptable discharge and to meet the requirements of this FOG Control Program.

(2) FSEs may be required to submit a schematic drawing of the grease removal device [interceptor] or alternative pretreatment, piping and instrumentation diagram, and wastewater characterization report.

(3) At the Director's discretion, all drawings and/or reports may be required to be prepared by a California Registered Civil, Chemical, or Electrical Engineer.

~~(e)~~(p) [Gravity] Grease Interceptor Requirements. Any FSE that is required to provide FOG pretreatment shall install operate and maintain an approved type and properly sized [gravity] grease interceptor,

or other grease removal device [interceptor] authorized under an approved variance, necessary to maintain compliance with the purpose of the FOG Control Program.

(1) Approved [gravity] grease interceptor sizing and installation shall conform to the latest approved edition of the California Uniform Plumbing Code.

(2) [Gravity] G[g]rease interceptors shall be constructed in accordance with the design approved by the Director and shall have a minimum of two compartments with fittings designed for grease retention.

(3) [Gravity] G[g]rease interceptors shall be installed at a location where it shall be at all times easily accessible for inspection, cleaning and removal of accumulated grease.

(i) [Gravity] G[g]rease interceptors may not be installed in any part of the building where food is handled.

(ii) If a location is not available on the property of the FSE, a street encroachment permit may be requested to authorize installation of a [gravity] grease interceptor in a public access area such as the street or sidewalk area.

(iii) There will be no obstruction from landscaping or parked vehicles, with the exception of parked vehicles in a public access area as granted through a street encroachment permit.

(4) Access ~~manholes~~ [structures], with a minimum diameter of twenty-four (24) inches, shall be provided over each [gravity] grease interceptor chamber and sanitary tee. The ~~manholes~~ [access structures] shall also have readily removable covers to facilitate inspection, grease removal and wastewater sampling activities.

(5) The original design of the [gravity] grease interceptor shall not be modified unless the manufacturer recommends the modification in writing.

(i) Any modification will be at the Food Service Establishment's expense.

(ii) The city is not liable for any non-compliance as a result of any modification.

~~(p)~~[(q)] [Gravity] G[g]rease Interceptor Maintenance Requirements. [Gravity] G[g]rease interceptors shall be maintained in efficient operating condition by periodic complete removal of all contents of the devices including wastewater, accumulated FOG, floating materials, sludge and solids.

(1) No FOG that has accumulated in a grease interceptor shall be allowed to pass into any sewer lateral, sewer system, storm drain, or public right of way during maintenance activities.

(2) Food Service Establishments that are located in an area that is considered to be a hot spot will be required to submit

data and information necessary to establish a maintenance frequency for their [gravity] grease interceptor.

(3) The maintenance frequency for all Food Service Establishments with a [gravity] grease interceptor shall be determined in one of the following methods:

(i) [Gravity] ~~G~~[g]rease interceptors shall be fully pumped out and cleaned at a frequency such that the combined FOG and solids accumulation does not ~~exceed the 25% Rule~~ [cause or have the potential to cause a sanitary sewer overflow]. Regardless, the interval between cleaning shall not exceed six (6) months.

(ii) The owner/operator of a Food Service Establishment may submit a request to the Director asking for a change in the maintenance frequency at any time. The Food Service Establishment has the burden of responsibility to prove that the change reflects actual operating conditions based on the average FOG accumulation over time, ~~and meets the requirements of the 25% Rule~~. The Food Service Establishment must also show that it is in full compliance with the conditions of its FOG Wastewater Discharge Permit and this section. Upon approval by the Director, the FOG Wastewater Discharge Permit will be modified accordingly to reflect the change in maintenance frequency.

(iii) If the [gravity] grease interceptor contains, at any time, FOG and solids accumulation that ~~exceeds the 25% Rule~~ [causes a sanitary sewer overflow], the Food Service Establishment shall be required to have the [gravity] grease interceptor serviced immediately so that all FOG, sludge and other materials are completely removed from the interceptor. If necessary, the Food Service Establishment may be required to increase the maintenance frequency of the [gravity] grease interceptor from its current frequency.

(4) Wastewater, accumulated FOG, floating materials, sludge, solids, and other materials removed from the [gravity] grease interceptor shall be disposed offsite properly by licensed waste haulers in accordance with federal, state, and/or local regulations.

~~(q)~~ [(r)] [Hydro-mechanical] Grease Trap [Interceptor] Requirements. [Hydro-mechanical grease] ~~Grease traps~~ [interceptors] may be authorized by the Director through a variance under Subsection (k) with the following conditions:

(1) [Hydro-mechanical grease] ~~Grease traps~~ [interceptors] shall be installed in waste lines leading from drains, sinks and other fixtures or equipment where grease may be introduced into the sewer system in quantities that can cause blockage.

(2) [Hydro-mechanical grease] ~~Grease traps~~ [interceptors] shall be properly sized and installed in accordance with the latest approved edition of the California Uniform Plumbing Code.

(3) The original design of the [hydro-mechanical] grease trap [interceptor] shall not be modified unless the manufacturer recommends the modification in writing.

(i) Any modification will be at the FSE's expense.

(ii) The city is not liable for any non-compliance as a result of any modification.

(4) [Hydro-mechanical] ~~G[g]rease Trap~~ [interceptors] shall be maintained in efficient operating conditions by removing accumulated grease. The interval between cleaning will be established by the Director, ~~but shall not exceed two (2) weeks.~~ Baffles shall be removed and cleaned during the maintenance process, when applicable.

(5) [Hydro-mechanical] ~~G[g]rease-Trap~~ [interceptors] shall be kept free of all food residues and any FOG waste removed during the cleaning and scraping process.

(6) [Hydro-mechanical] ~~G[g]rease-Trap~~ [interceptors] shall be inspected periodically to check for leaking seams and pipes and for effective operation of the baffles and flow regulating devices.

(7) [Hydro-mechanical] ~~G[grease-Trap~~ [interceptors] and their baffles shall be maintained free of all caked on FOG and waste.

(8) Dishwashers and food waste disposal units shall not be connected to or discharged into any [hydro-mechanical] grease trap [interceptor].

(9) The temperature of any water entering a [hydro-mechanical] grease trap [interceptor] shall not exceed 140° F (60° C).

~~(+)~~[(s)] Monitoring Requirements.

(1) The Director may require, through the FOG Wastewater Discharge Permit or at any time, an FSE to construct and maintain in proper operating condition, at the FSE's sole expense, flow monitoring, constituent monitoring, and/or sampling devices.

(2) The location of monitoring or metering devices shall be subject to approval by the Director.

(3) At all times, FSEs shall provide immediate, clear, safe and uninterrupted access to authorized representatives of the city to all monitoring and metering devices.

(4) FSEs may be required by the Director to submit waste analysis plans, contingency plans, and meet other necessary requirements to ensure proper operation and maintenance of any

grease ~~removal device~~ [interceptor] and compliance with this section, (s) Record Keeping Requirements. FSEs shall keep all records, including manifests, receipts and invoices of all cleaning and maintenance of grease ~~removal devices~~ [interceptors]. All records shall be made available to authorized representatives of the city upon request. In addition to the above mentioned documents, records include logbooks of maintenance activity, BMPs and employee training, sampling data, spill reports, line cleaning reports, and any other information deemed appropriate by the Director to ensure compliance with the FOG Control Program and this section.

SECTION 4. Subsection (c) of Section 6-323 of the Fresno Municipal Code is amended to read as follows:

(c) Available Remedies for Violations. Notwithstanding any other remedies available in the [is C] code or in state or federal law, the Control Authority may do any of the following to address a violation of this article:

- (1) Take action pursuant to an Enforcement Response Plan.
- (2) Issue a notice of compliance.
- (3) Issue an administration citation to the user and/or the person or entity that caused the violation.
- (4) Modify or revoke the user's permit.
- (5) Cease city utility service pursuant to a show cause hearing.

(6) Request City Attorney's Office to pursue civil and/or criminal action pursuant to local, state or federal law, including, but not limited to California Government Code Section 54740. [The Control Authority shall have the authority to seek or assess civil or criminal penalties in at least the amount of \$1,000 a day for each violation of pretreatment standards and requirements by industrial users.]

SECTION 5. Section 6-327 of the Fresno Municipal Code is amended to read as follows:

SECTION 6-327. DISCHARGE PROHIBITIONS

(a) General Prohibitions. No user shall introduce or cause to be introduced, directly or indirectly, to the POTW any pollutant or wastewater which will cause Pass Through or Interference. These general prohibitions apply to all users of the POTW whether or not the users are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements.

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

(1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the

POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140° F or 60° C.

(2) Any wastewater with a pH less than 6 or greater than 12.4, or having any corrosive or detrimental characteristic that may cause injury to wastewater treatment or maintenance personnel, or may cause damage to structures, equipment or other physical facilities of the regional sewer system.

[(i) Where an industrial user continuously measures the pH of wastewater, the industrial user shall maintain the pH of such wastewater within the range set forth above, except excursions from the range are permitted subject to the following limitations:

a. The total time during which the pH values are outside the required range of pH values shall not exceed 7 hours and 26 minutes in any calendar month; and

b. No individual excursion from the range of pH values shall exceed 60 minutes.

[(ii) For purposes of this subsection, an excursion is an unintentional and temporary incident in which the pH value of discharge wastewater exceeds the range set forth above.]

(3) Solid or viscous substances which may cause obstruction to the flow in the POTW resulting in Interference.

(4) Any pollutants, including oxygen-demanding pollutants (e.g., BOD) released in a Discharge at a flow rate and/or pollutant concentration which will cause Interference to the POTW.

(5) Any wastewater containing heat in amounts which will inhibit biological activity in the POTW resulting Interference, but in no case heat in such quantities that will cause the temperature at the treatment plant to exceed 104°F (40°C) unless the Approval Authority, upon request of the POTW, approves alternate temperature limits.

(6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through.

(7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(8) Any trucked or hauled pollutants except at discharge points designated by the POTW.

(9) Any other industrial wastes, unless such wastes have first been passed through screens having openings not exceeding one-half inch in dimension; provided, however, that the Control Authority, by written permit, may authorize the discharge into the

regional sewer system of such wastes if they are first passed through screens having larger openings, if the Control Authority is satisfied that such larger openings will provide screening efficiency and effectiveness equal to or better than that provided by the smaller openings.

(10) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to Section 307(a) of the Act.

(11) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(12) Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations

developed under Section 405 of the Act, any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act or the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(13) Any substance which will cause the POTW to violate the Waste Discharge Requirements mandated by the state.

(14) Any wastewater with objectionable color not removed in the treatment process.

(15) Any wastewater containing radioactive material in sufficient quantity to interfere with any treatment process or constitute a hazard to humans or animals.

(16) Any wastewater containing substances that may precipitate, solidify or become viscous at temperatures between 40°F (4.4°C) and 100°F (37.7°C)

(17) Any recognizable portions of the human anatomy.

(18) Any storm water, surface water, groundwater, roof runoff, or subsurface drainage which is acceptable to be discharged to other facilities where such facilities are available.

(19) Any cooling water which is sufficiently clean to be discharged to some other suitable facility, such as a storm drain, where such facilities are available.

(20) Any pool water, spa water, or pond water which is acceptable to be discharged to other facilities where such facilities are available.

(21) Any malodorous substance such as hydrogen sulfide or any other substance which will cause offensive odors in the sewer system or at the treatment plant.

(22) Any substance which is not amenable to treatment by the processes employed at the treatment plant.

(23) Any substance which will cause corrosive structural damage to the POTW.

(24) Any slug loading [without immediate notification to the POTW].

(25) Any wastewater that comes into contact with any process utilizing tetrachloroethene.

(26) Wastewater causing two successive readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five per cent (5%), or any single reading over ten per cent (10%) of the Lower Explosive Limit of the meter.

(c) Compliance by existing sources with the Federal Categorical Pretreatment Standards shall be within three (3) years of the date the standard is promulgated unless a shorter compliance time is specified in the appropriate subpart of 40 C.F.R., Chapter 1, Subchapter N. Upon the

promulgation of the Federal Categorical Pretreatment Standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this article for sources in that subcategory, shall immediately supersede the limitations imposed under this article. The Director shall notify all affected users of the applicable reporting requirements under 40 C.F.R. § 403.12.

(d) Local Limits. The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following:

Parameter	Limit, Daily Average [Maximum]	Unit
Arsenic	0.32	mg/L
Cadmium	0.12	mg/L
Chromium, Total	6.7	mg/L
Copper	2.5	mg/L
Cyanide, Total	0.77	mg/L
Lead	1.2	mg/L
Mercury	0.05	mg/L
Nickel	1.3	mg/L
Silver	1.1	mg/L
Zinc	2.1	mg/L
Phenolic Compounds ^[1]	300	mg/L
Trichloroethene	0.12	mg/L
Tetrachloroethene	0.77	mg/L
BETX ^[*2]	20	mg/L
Oil and Grease	700	mg/L

[¹ 4-Chloro-3-methylphenol, 2-Chlorophenol, 2,4-Dichlorophenol, 2,4-Dimethylphenol, 2,4-Dinitrophenol, 2-Methyl-4,6-dinitrophenol, 2-Nitrophenol, 4-Nitrophenol, Pentachlorophenol, Phenol, 2,4,6-Trichlorophenol as a single constituent or as a cumulative total.]

[²]Benzene, ethylbenzene, toluene, and xylene as a single constituent or as a cumulative total.

(e) Application of Limits. The limits in Section 6-327(d) apply at the point where the wastewater is discharged to the POTW (also called "end of pipe"). All concentrations for metallic substances are for "total" metals unless indicated otherwise.

[(1) Where the process effluent is collected prior to mixing with other wastewaters for proper application of the limits in Section 6-327(d), fixed alternative discharge limits may be derived by the Control Authority. These alternative limits shall be applied to the unmixed effluent. When deriving alternative local limits, the Control Authority shall calculate an alternative daily maximum value using the daily maximum value(s) specified in the appropriate local limit. The industrial user shall comply with the alternative daily maximum limits fixed by the Control Authority until the Control Authority modifies the limits. Modification is authorized whenever there is a material or significant change in the values used in the calculation to fix alternative limits for the regulated pollutant. Upon notification of any such material or significant change, the Control Authority shall calculate new local limits.]

(2) The alternative limit for a specified pollutant will be derived by use of the following formula:

$$C_T = \left[\frac{\sum_{i=1}^n C_i F_i}{\sum_{i=1}^n F_i} \right] \left[\frac{F_T}{F_T - F_D} \right]$$

Where

C_T = the alternative concentration limit for the uncombined wastestream

C_i = the local concentration limit for a pollutant

F_i = the average daily flow (at least a 30-day average) of stream i , where the sample was collected

F_D = the average daily flow (at least a 30-day average) from other streams contributing to end of pipe after stream i

F_T = the average daily flow (at least a 30-day average) for the industrial user (includes F_i and F_D)

(f) **Equivalent Mass Limits.** The Control Authority may impose mass limitations in addition to, or in place of, the concentration-based limitations listed in Section 6-327(d).

(g) **Contributions Causing Pass Through or Interference.** When the Control Authority determines that a user is contributing to the POTW any of the specific prohibitions listed in Section 6-327(b) in such amounts as to cause pass through or interference, the Control Authority shall:

(1) Advise the user(s) of the impact of the contribution on the POTW, and

(2) Develop effluent limitation(s) for such user(s) to correct the interference with the POTW.

(h) **Best Management Practices.** The Control Authority may develop Best Management Practices (BMPs) to implement the general prohibitions, specific prohibitions, and local limits listed in this section.

SECTION 6. Subsection (g) of Section 6-335 of the Fresno Municipal Code is amended to read as follows:

(g) Permit Conditions. Wastewater Discharge Permits shall include such conditions as are deemed reasonably necessary by the Control Authority to prevent pass through or interference, protect the quality of the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(1) Wastewater Discharge Permits must contain:

(i) A statement that indicates wastewater discharge permit duration in accordance with Section 6-335(i) of this Code;

(ii) A statement that the wastewater discharge permit is nontransferable in accordance with Section 6-335(j) of this Code;

(iii) Effluent limits, [including Best Management Practices,] based on applicable pretreatment standards;

(iv) Self [Self-]monitoring, sampling, reporting, notification, and record-keeping requirements, when applicable. 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

(v) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

[(vi) Requirements to control slug discharges, if determined by the Control Authority to be necessary.]

(2) Wastewater Discharge Permits may contain, but need not be limited to, the following conditions:

(i) The unit charge or schedule of user charges and fees for the wastewater to be discharged to the regional sewer system;

(ii) Limits on the average and maximum wastewater constituents and characteristics;

(iii) Limits on the average and minimum rate and time of discharge or requirements for flow regulations and equalization;

(iv) Requirements for installation and maintenance of inspection and sampling facilities;

(v) Specifications for monitoring programs which may include sampling locations, frequency of sampling,

number, types, and standards for tests and reporting schedule;

(vi) Compliance schedules;

(vii) Requirements for submission of technical reports (See Section 6-336);

(viii) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Control Authority, and affording the Control Authority access thereto;

(ix) Requirements for notifying the Control Authority prior to and obtaining approval of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the regional sewer system;

(x) Requirements for notifying the Control Authority of slug discharges;

(xi) Other conditions as deemed appropriate by the Control Authority to ensure compliance with this article.

~~(3) Wastewater Discharge Permits for septage haulers may contain the following additional conditions:~~

~~(i) Restrictions for allowing only the discharge of domestic or residential waste from septic tanks or chemical~~

~~toilets, or any other liquid waste approved by the Control Authority;~~

~~(ii) The specific location for the discharge of the approved wastes;~~

~~(iii) Requirements to prepare a manifest before transporting the waste off site, containing at a minimum:~~

~~(A) The transporter's name, address and Wastewater Discharge Permit number;~~

~~(B) The generator's name, address, telephone number and business type;~~

~~(C) The description and volume of the waste hauled;~~

~~(D) The name and location of the disposal site;~~

~~(E) The signature of the generator and the transporter;~~

~~(iv) Requirements to submit the manifest to the Control Authority prior to any discharge at the disposal site;~~

~~(v) Requirements to pay all City of Fresno sewer utility bills in full; and~~

~~(vi) Any other general and/or special operating conditions.~~

SECTION 7. Section 6-336 of the Fresno Municipal Code is amended to read as follows:

SECTION 6-336. REPORTING REQUIREMENTS FOR INDUSTRIAL USERS.

(a) Baseline Monitoring Report. Within one hundred eighty (180) days after the promulgation of a categorical pretreatment standard under Section 307(b) or (c) of the Act (33 U.S.C. § 1317(b) or (c)), or one hundred eighty (180) days after the effective date of 40 C.F.R., Part 403, existing industrial users subject to such categorical pretreatment standards and currently discharging into or scheduled to discharge into a POTW shall be required to submit to the Control Authority a report which contains the information listed in Subdivisions (1) through (8) of this subsection. At least ninety (90) days prior to commencement of discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the Control Authority a report which contains the information listed in Subdivisions (1) through (5) of this subsection. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall give estimates of the information requested in Subdivisions (4) and (5):

(1) The name and address of the industrial user including the name of the operator(s) and owner(s).

(2) A list of any environmental control permits held by or for the facility.

(3) The nature, average rate of production, and standard industrial classification of the operation(s) carried out by such industrial user.

(4) The measured average daily and maximum daily flow in gallons per day or, where approved by the Control Authority due to cost or feasibility considerations, a verifiable estimate of average daily and maximum daily flow to the POTW from each of the following:

(i) Regulated process streams; and

(ii) Other streams as necessary to allow use of the combined wastestream formula of 40 C.F.R. §403.6.

(5) A report signed and certified by a duly authorized representative of the industrial user of the nature and concentration of pollutants in the discharge from each regulated process, and identification of the applicable pretreatment standards. In cases where the standard requires compliance with a Best Management Practice or pollution prevention alternative, the user shall submit documentation as required by the Control Authority or the applicable standards to determine compliance with the standard.

(6) A statement, signed by an authorized representative of the industrial user, and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and

maintenance and/or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements.

(7) If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standard, the shortest schedule by which the industrial user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standards.

(8) Where process effluent is mixed prior to treatment with wastewaters other than those generated by the regulated process, an equivalent concentration limit will be derived using the method outlined in 40 C.F.R. § 403.6.

(b) Ninety-day Compliance Report. Within ninety (90) days following the date of final compliance with applicable pretreatment standards or in the case of a new source following commencement of the introduction of wastewater into the POTW, any industrial user subject to pretreatment standards and requirements shall submit to the Control Authority a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance

and/or pretreatment is necessary to bring the industrial user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified by a qualified professional.

(c) Periodic Compliance Report. Any industrial user subject to categorical pretreatment standards (except a non-significant categorical user), after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the Control Authority during the months of June and December, unless required more frequently in the pretreatment standard or the city's Wastewater Discharge Permit, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in Section 6-336(a)(4), except that the Control Authority may require more detailed reporting of flows. In cases where the pretreatment standard requires compliance with a Best Management Practice (or pollution prevention alternative), the user shall submit documentation required by the Control Authority or the pretreatment standard necessary to determine the compliance status of the user. At the discretion of the Control Authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc.,

the Control Authority may modify the months during which the above reports are to be submitted.

(1) The Control Authority may authorize the industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. This authorization is subject to the following conditions:

(i) The Control Authority may authorize a waiver where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.

(ii) The monitoring waiver is valid only for the duration of the effective period of the permit or other equivalent individual control mechanism, but in no case longer than five (5) years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent control mechanism.

(iii) In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes. The request for a monitoring waiver must be signed by an authorized representative and include the certification statement in Section 6-336(n). Non-detectable sample results may only be used as a demonstration that a pollutant is not present if the EPA approved method from 40 C.F.R. Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(iv) Any grant of the monitoring waiver by the Control Authority must be included as a condition in the user's control mechanism. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the Control Authority for 3 years after expiration of the waiver.

(v) Upon approval of the monitoring waiver and revision of the user's control mechanism by the Control Authority, the industrial user must certify on each report with the statement below, that there has been no increase in the

pollutant in its wastestream due to activities of the Industrial User:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for 40 C.F.R. [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under 40 C.F.R. §403.12(e)(1)."

(vi) In the event that a waived pollutant is found to be present or is expected to be present based on changes that occur in the user's operations, the user must immediately: Comply with the monitoring requirements of this section or other more frequent monitoring requirements imposed by the Control Authority, and notify the Control Authority.

(vii) This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.

(2) The Control Authority may reduce the requirement in this section to a requirement to report no less frequently than once

a year, unless required more frequently in the pretreatment standard or by the Approval Authority, where the industrial user meets all of the following conditions:

(i) The industrial user's total categorical wastewater flow does not exceed any of the following:

1. 0.01 percent of the design dry weather hydraulic capacity of the POTW, or 5,000 gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the industrial user discharges in batches:

2. 0.01 percent of the design dry weather organic treatment capacity of the POTW; and

3. 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical pretreatment standard for which approved local limits were developed by the Control Authority;

(ii) The industrial user has not been in significant noncompliance, as defined in 40 C.F.R. § 403.8(f)(2)(viii) and Section 6-302(s)(9) of this Code, for any time in the past two years;

(iii) The industrial user does not have daily flow rates, production levels, or pollutant levels that vary so

significantly that decreasing the reporting requirement for this industrial user would result in data that are not representative of conditions occurring during the reporting period;

(iv) The industrial user must notify the Control Authority immediately of any changes at its facility causing it to no longer meet conditions of paragraphs (c)(2)(i) or (ii) of this section. Upon notification, the industrial user must immediately begin complying with the minimum reporting in this section; and

(v) The Control Authority must retain documentation to support the Control Authority's determination that a specific industrial user qualifies for reduced reporting requirements under paragraph (c)(2) of this section for a period of 3 years after the expiration of the term of the control mechanism.

(d) Flow Monitoring Report. Significant industrial users that are not subject to categorical pretreatment standards but are subject to city effluent limitations shall submit to the Control Authority at least once every six months (on dates specified by the Control Authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority. In cases where a local limit requires compliance with a Best Management Practice or pollution prevention

alternative, the user must submit documentation required by the Control Authority to determine the compliance status of the user. These reports shall be based on sampling and analysis performed in the period covered by the report.

(e) Self-monitoring Report. When required by the Control Authority, an industrial user shall submit a report indicating the concentration of specific pollutants discharged in the effluent. The determination of said pollutants by the Control Authority shall be based on what is reasonably expected to be found at the site and the frequency of monitoring shall be based on the compliance status of the industrial user.

(f) Detected Violation and Repeat Sampling. If sampling performed by an industrial user indicates a violation, the industrial user must notify the Control Authority within twenty-four (24) hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within thirty (30) days after becoming aware of the violation. Where the Control Authority has performed the sampling and analysis in lieu of the industrial user, the Control Authority must perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. Resampling is not required if the Control Authority performs sampling at the industrial user's facility at least once a month, or if the Control Authority performs sampling at the industrial user's facility between the time when the initial sampling

was conducted and the time when the industrial user or the Control Authority receives the results of this sampling.

(g) Compliance Schedule. The following conditions shall apply to the schedule required by Section 6-323(b) and Section 6-336(a)(7) and elsewhere as a result of a violation of this article:

(1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events including the construction and operation of additional pretreatment required for the industrial user to meet the applicable pretreatment standards or city effluent limitations.

(2) No increment referred to in Subdivision (g)(1) shall exceed nine (9) months.

(3) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the Control Authority including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the Control Authority.

(h) Reporting Mass Limits. The Control Authority may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or city effluent limitations or requirements, or in other cases where the imposition of mass limitations is appropriate. In such cases, the reports required in Section 6-336(c) and 6-336(d) shall indicate the mass of pollutants regulated by pretreatment standards or city effluent limitations in the effluent of the industrial user.

(i) Notification of the Discharge of Hazardous Waste. Any industrial user discharging into the POTW a substance which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R., Part 261 shall notify, in writing, the Control Authority, the EPA Regional Waste Management Division Director, and state hazardous waste authorities. Such notification shall follow the precepts found in 40 C.F.R. §403.12.

(j) Reports of Changed Conditions. Each user [subject to an equivalent mass limit] must notify the Control Authority of any planned significant changes to the user's operations or pretreatment system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change.

(1) The Control Authority may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application.

(2) The Control Authority may issue a Wastewater Discharge Permit or modify an existing Wastewater Discharge Permit in response to changed conditions or anticipated changed conditions.

(3) For purposes of this requirement, significant changes include, but are not limited to, flow increases or [decreases] of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

(k) Reports of Potential Problems. In the case of any discharge, including, but not limited to, accidental discharges, slug loads, or discharges that are otherwise determined to be non-routine or unusual in nature, that may cause potential problems for the POTW, the industrial user shall immediately notify the Control Authority of the incident. Additionally, a written report must be provided within five (5) days. This report shall include the following information:

(1) The date and time of the event.

(2) A description of the cause of the event.

(3) The duration of the event or, if still in progress, the expected time for the event to cease.

(4) The steps to be taken to prevent recurrence of the event.

(l) Sampling and Analytical Requirements. All pollutant analyses, including sampling techniques, to be submitted as part of any

report required pursuant to this article shall be performed in accordance with the procedures established by the EPA pursuant to Section 304(h) of the Act (33 U.S.C. §1314(h)) and contained in 40 C.F.R. Part 136, and amendments thereto, or with any other test procedures approved by the EPA, unless specifically required otherwise by the Control Authority. Where 40 C.F.R. Part 136 does not include a sampling or analytical technique for the pollutant in question, or where the Regional EPA Administrator determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Control Authority or other parties, approved by the Regional EPA Administrator.

(1) Where feasible, samples shall be collected through flow proportional composite sampling techniques. In the event flow proportional composite sampling is not feasible, the Control Authority may authorize the use of time proportional sampling or multiple grab samples collected over the course of a process day where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(i) Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. Using protocols (including appropriate preservation) specified in 40 C.F.R. Part 136 and appropriate EPA guidance, multiple grab samples collected over the course of a process day may be composited prior to the analysis as follows: For cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil & grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Control Authority, as appropriate.

(ii) For sampling required in support of Baseline Monitoring Reports and 90-Day Compliance Reports, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Control Authority shall require the number of grab samples necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements.

(2) Reports shall contain results of sampling and analysis identifying the nature and concentration (or mass, where required by the Control Authority) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. Sampling shall be representative of daily operations.

(3) Samples for categorical standards shall be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists.

(i) If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user shall measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 C.F.R. §403.6(e) in order to evaluate compliance with the pretreatment standard.

(ii) Where an alternate concentration or mass limit has been calculated in accordance with 40 C.F.R. §403.6(e), this adjusted limit, along with supporting data, shall be submitted to the Control Authority.

(4) Samples for city effluent limitations shall be taken at a point representative of the entire discharge ~~of all the processes~~

emanating from an industrial user. [When this is not feasible, Section 6-327(e) shall apply.]

[(m) Report Submittal Requirements. If an industrial user subject to reporting requirements of this article monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Control Authority, using procedures prescribed in 40 C.F.R. Part 136, the results of this monitoring shall be included in the report].

~~(m)~~[(n)] Sample Information. Reports, signed and certified by a duly authorized representative of the industrial user as set forth in 40 C.F.R. §403.6(a)(2)(ii) and 40 C.F.R. §403.12(l) shall certify that such sampling and analysis are representative of normal work cycles and expected pollutant discharges to the POTW and shall contain the following information:

- (1) The date, exact place, method, and the time of sampling and the names of the person or persons taking the samples;
- (2) The dates analyses were performed;
- (3) Who performed the analyses;
- (4) The analytical techniques/methods used; and
- (5) The results of such analyses.

~~(n)~~[(o)] Authorized Signature. All wastewater discharge permit applications and user reports required by this article as well as any other report that may be required by a Wastewater Discharge Permit shall

be signed and certified by an authorized representative of the industrial user and contain the following certification statement:

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

~~(e)~~(p) Fraud and False Statements. The reports required by this article as well as any other report that may be required by a Wastewater Discharge Permit shall be subject to the provisions of 18 U.S.C. § 1001, relating to fraud and false statements, and the provisions of Section 309(c)(4) of the Act (33 U.S.C. § 1319(c)(4)), governing false statements, representations or certifications in reports required under the Act and to the provision set forth in 40 C.F.R. § 403.6(a)(2)(ii) and 40 C.F.R. § 403.12(l).

~~(e)~~(q) Record Keeping. Any industrial user subject to the reporting requirements established in this article or wastewater discharge permit (including documentation associated with Best Management

Practices)] shall be required to retain for a minimum of three (3) years any records of monitoring activities and results, and shall make such records available for inspection and copying by the Control Authority. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user.

~~(g)~~(r) Upset. An upset shall constitute an affirmative action defense to an action brought for noncompliance with categorical pretreatment standards or city effluent limitations if the requirements of Subdivision (1) are met.

(1) An industrial user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:

(i) An upset occurred and that the industrial user can identify the specific cause(s) of the upset.

(ii) The facility was, at the time, being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures.

(iii) The industrial user had submitted the following information to the Control Authority within twenty-four (24) hours of becoming aware of the upset. Additionally, a written report must be provided within five (5) days in accordance with Section 6-336(k).

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

(3) In the usual exercise of prosecutorial discretion, the city's enforcement personnel will ordinarily review any claims that noncompliance was caused by an upset. No determination made in the course of the review shall constitute final city action subject to judicial review. Industrial users will have the opportunity for judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards or city effluent limitations.

(4) The industrial user shall control production and all discharges upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies to the situation, among others, where the primary source of power of the treatment facility is reduced, lost or fails.

~~(+)~~(s) Annual Certification by Non-Significant Categorical Industrial Users. A facility determined to be a non-significant categorical industrial user pursuant to 40C.F.R. § 403.3(v)(2) and Section 6-302(s)(8) must annually submit the following certification statement, signed in accordance with the signatory requirements in Section 6-336(n). This

certification must accompany an alternative report required by the Control Authority:

“Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 C.F.R. _____, I certify that, to the best of my knowledge and belief that during the period from _____ / _____ / _____ to _____ / _____ / _____ [months, days, year]:

(a) The facility described as [facility name] met the definition of a non-significant categorical Industrial User as described in 40 C.F.R. § 403.3(v)(2);

(b) the facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and

(c) the facility never discharged more than one hundred (100) gallons of total categorical wastewater on any given day during this reporting period. This compliance certification is based upon the following information-”[:]

[_____
_____]

[(t) Electronic Submittal of Documents. With the publication of 40 C.F.R Part 3 (Cross-Media Electronic Reporting Rule), the EPA has made available, as an option, electronic submittal of documents through the use of an electronic document receiving system meeting the

requirements of 40 C.F.R. Part 3 and approved by the EPA. At the time that the Control Authority meets the requirements of 40 C.F.R. Part 3, an industrial user wanting to submit any document required under this article in electronic (digital) format may do so by registering with the electronic document receiving system selected by the Control Authority.]

SECTION 8. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

* * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____ 2019.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2019
Mayor Approval/No Return: _____, 2019
Mayor Veto: _____, 2019
Council Override Vote: _____, 2019

YVONNE SPENCE, MMC CRM
City Clerk

BY: _____
Deputy Date

APPROVED AS TO FORM:
DOUGLAS T. SLOAN,
City Attorney

BY: _____
Amanda Freeman Date
Senior Deputy City Attorney