

APPENDIX B – Element 3 (Legal Authority) Supporting Documents

1. Lathrop Municipal Code (LMC) Chapter 13.16 - SEWER SERVICE SYSTEM
2. LMC Chapter 13.26 - SEWER USE AND INDUSTRIAL WASTEWATER REGULATIONS
3. Enforcement Response Plan (DRAFT) – Enforcement of Sewer Use Ordinance #05-254.
4. FOG Enforcement Response Plan (DRAFT) – Enforcement of Sewer Use Ordinance #05-0254.
5. Resolution No. 05-1975; Resolution of the City Council of the City of Lathrop Adopting an Industrial Pretreatment Program Interjurisdictional Agreement with the City of Manteca.
6. Interjurisdictional Agreement Between the City of Manteca and The City of Lathrop.

Chapter 13.16 SEWER SERVICE SYSTEM

13.16.010 General provisions.

A. Purpose and Policy. This chapter sets forth uniform requirements, fees, and rates for use of the sewer system for the City of Lathrop and enables the City to comply with applicable regulatory requirements, and to provide sustainable revenue for operation and maintenance of the sewer system. The objectives of this chapter are:

1. To prevent public health hazards through the proper design and construction of City sewer service system facilities in accordance with City standards, and City approval of plans and permits prior to their construction.
2. To prevent public health hazards through the proper design, construction and use of on-site waste disposal systems in accordance with local, state and federal regulations.
3. To promote public health and safety by establishing uniform requirements for proper use of the City’s sewer service system.
4. To meet all applicable regulatory notification, monitoring and reporting requirements.
5. To establish fees and rates for use of the City’s sewer service system necessary to provide sustainable revenue for operation and maintenance of the sewer service system.

B. Abbreviations.

| | |
|-------|--|
| BOD | Biochemical Oxygen Demand |
| BU | Billing Unit |
| EHD | San Joaquin County Environmental Health Department |
| PVC | Polyvinyl Chloride |
| SID | Substantial Industrial Discharger |
| SIU | Significant Industrial User |
| SS | Suspended Solids |
| SSMP | Sewer System Management Plan |
| SWRCB | State Water Resources Control Board |
| WDR | Waste Discharge Requirements |

Appendix B - Element 3: (Legal Authority)

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|-------------|---|
| WQCF | Wastewater Quality Control Facility |
| WRP-1 (MBR) | Water Recycling Plant No. 1 Membrane Biological Reactor |

C. Definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

“Billing unit ” means one thousand (1,000) gallons or any portion thereof of sewage, sewerage or wastewater discharged by a nonresidential user.

“Biochemical oxygen demand ” means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at twenty (20) degrees centigrade, usually expressed as a concentration measured in milligrams per liter (mg/l).”

“City” means the city of Lathrop.

“City council” or “council” means the city council of the city of Lathrop.

“City manager” or “manager” means the city manager of the city of Lathrop.

“Manteca WQCF user” means any user who has the ability to discharge to the Manteca WQCF facility.

“Commercial use” means use of the sewage system by an entity or for a business which is operated with regard to, or designed for profit, or for a trade or professional use, such as a medical office. For the purpose of this chapter, commercial use includes business or entities which would be commercial in nature, except that they are organized for a nonprofit purpose. Commercial use does not include industrial use.

“Commodity rate” means charge based upon estimated volume of wastewater generated.

“Crossroads facility” means the wastewater treatment facility owned and operated by the city to serve industrial and commercial customers located in the Crossroads Industrial Park.

“Crossroads user” means any industrial or commercial user who has the ability to discharge to the Crossroads facility.

“Dissolved solids” or “dissolved matter” means the solid matter in solution in the wastewater; dissolved solids shall be obtained by evaporation of a sample from which all

suspended matter has been removed by filtration, as determined by the procedures in “Standard Methods.”

“Domestic wastewater” means the water-carried wastes produced from nonindustrial activities and which result from normal human living processes.

“Effluent” means the liquid outflow of any facilities designed to treat, convey or retain wastewater.

“Force main” means a closed sewer line designed to operate under pressure at higher velocities than gravity sewers. This allows for the use of smaller lines and the elimination of manholes.

“Governmental use” means use of the sewage system by hospitals, schools, rest homes, churches, community centers or equivalent uses, where the waste produced is in the nature of domestic wastewater, and the use is not a commercial, industrial or residential use.

“Gravity separation interceptor” means any facility designed, constructed and operated for the purpose of removing and retaining dangerous, deleterious or prohibited constituents from wastewater by differential gravity separation before discharge to the public sewer.

“Gravity sewer” means a pipeline laid at a gradient to grade elevation to allow for gravity flow. Manholes are spaced at intervals along the line for cleanouts. The pipeline is not designed to operate under pressure.

“House connection” means the sewer connecting the building sewer or building waste drainage system to the public sewer for the purpose of conveying domestic wastewater.

“Industrial connection sewer” means the sewer connecting the building waste drainage system to the public sewer for the purpose of conveying industrial wastewater.

“Industrial use” means use of the sewage system by an entity engaged in activity related to manufacturing, processing of material or the production of goods or services on a large scale, as distinguished from retail commercial establishments. In case of a question as to whether the use is industrial or commercial, the public works director shall decide, and the decision of the public works director shall be final, except as provided in Section 13.16.290.

“Industrial wastewater” means all water-carried wastes and wastewater of the community, excluding domestic wastewater and uncontaminated water, and shall include all wastewater from any producing, manufacturing, processing, institutional, commercial, agricultural or other operation where the wastewater discharged includes significant quantities of wastes of nonhuman origin.

Appendix B - Element 3: (Legal Authority)

“Inspector” means a person authorized by the public works director to inspect the construction and completion of sewage collection systems, transmission lines, gravity sewers, force mains, treatment and disposal facilities, service laterals and service connection sewers.

“Lateral sewer,” “collecting sewer” or “main line sewer” means the public sewer, usually six inches or larger in diameter, used to collect wastewater from house connection and industrial connection sewers and to transport it to trunk sewers.

“Lathrop Water Recycling Plant No. 1 Membrane Bioreactor Expansion” means the wastewater treatment facility owned and operated by the city and located in the Crossroads Industrial Park for wastewater users approximately located west of I-5 or in the River Islands development area.

“Local sewerage agency” means the city or the public agency legally authorized to construct, maintain and operate a system of lateral or collecting sewers.

“Manteca Wastewater Quality Control Facility” means the wastewater treatment facility owned and operated by the city of Manteca and to which the city has the right to discharge wastewater, sewage and sewerage generated by persons in the city for treatment and disposal.

“Nonresidential use” means a use of the sewage system by a person, including but not limited to all businesses; corporations; companies; partnerships; stores; commercial warehouses; hospitals; educational, health care, military and correctional institutions; multiple-family dwelling units of four or more units; and other entities utilizing either the Manteca WQCF, WRP-1 (MBR) facility or the Crossroads facility, including commercial uses, governmental and industrial uses. “Nonresidential uses” include all uses other than residential uses, as defined in this section.

“Peak flow rate” means the average rate of flow during any continuous three-hour period that produces a maximum quantity.

“Person” means any individual, partnership, committee, association, corporation, public agency and any other organization or group of persons, public or private.

“Public corporation” means the state of California and any political subdivision therefor, any incorporated municipality therein, any public agency of the state or any political subdivision thereof; or any corporate municipal instrumentality of the state.

“Public sewer” means any sewer dedicated to public use and whose use is controlled by a public corporation.

“Public works director” or “director” means the public works director of the city of Lathrop.

Appendix B - Element 3: (Legal Authority)

“Residential use” means a use of the sewage system by a person who generates domestic wastewater, as by single-family dwelling unit or multiple-family dwelling units, where such use is not a commercial, industrial or institutional use.

“Sewage” or “sewerage” means wastewater.

“Sewage pumping plant” or “lift station” means any facility designed and constructed to raise wastewater in elevation or to overcome head losses due to pipeline friction.

“Sewerage system” means a network of wastewater collection, conveyance, treatment and disposal facilities interconnected by sewers, and owned by the city or a network of wastewater collection and conveyance facilities owned by others.

“Sewer System Management Plan” means a system-specific plan prepared by the City to comply with the State Water Resources Control Board Order No. 2006-0003 known as “Statewide General Waste Discharge Requirements for Wastewater Collection Agencies”

“Solid wastes” means the non-liquid carried wastes normally considered to be suitable for disposal with refuse at sanitary landfill refuse disposal sites.

“Standard methods” means the current edition of “Standard Methods for the Examination of Water and Wastewater” as published by the American Public Health Association.

“Stand-by charge” means a charge levied against certain enumerated properties based upon the ability of the person against whom such charge is levied to discharge sewage, sewerage or wastewater into the sewerage system.

“Street” or “road” means any public highway, road, street, avenue, way, alley, easement or right-of-way.

“Substantial industrial discharger ” means one whose discharge contributes more than ten thousand (10,000) gallons per day (excluding sanitary, non-contact cooling and boiler blow-down water), or whose discharge contributes a process waste-stream which makes up ten (10) percent or more of the average dry weather hydraulic or organic capacity of the city’s wastewater treatment plant.

“Suspended solids” or “suspended matter” means the insoluble solid matter suspended in wastewater that is separable by laboratory filtration in accordance with the procedure described in “Standard Methods.”

“Trunk sewer” means a sewer constructed, maintained and operated by the city that conveys wastewater to city facilities and into which lateral and collecting sewers discharge.

Appendix B - Element 3: (Legal Authority)

“Uncontaminated water” means any wasted water of the community not contaminated or polluted with wastewater and which is suitable or could readily be made suitable for discharge to the municipal storm water drainage system.

“User” means a discharger, or the legal owner of premises served, as provided in this chapter.

“User classification” means classification of nonresidential users based on anticipated BOD and suspended solids.

“User rates” means the charge to each user of the city’s sewerage system for the privilege of discharging wastewater, sewer and/or sewerage into the system.

“Wastewater” means the water carrying wastes of the community derived from human or industrial sources, including domestic wastewater and industrial wastewater.

“Wastewater discharge permit” means a permit issued to all substantial industrial dischargers , significant industrial users , and any other users that discharge to the city’s wastewater system a waste, of substantial volume or of a concentration, that the director of public works deems significant and therefore requires a permit.

“Wastewater Strength” means the wastewater strength in of BOD and SS used used to determine the five user customer classes for billing purposes of non-residential users as follows:

| Customer Class | BOD Strength (mg/l) | SS Strength (mg/l) |
|----------------------|---------------------|--------------------|
| Low-Strength | 150 | 150 |
| Medium Low Strength | 200 | 200 |
| Medium Strength | 350 | 350 |
| Medium High Strength | 500 | 500 |
| High Strength | 1,000 | 800 |

(Ord. 03-221 § 1; Ord. 01-193 § 1; prior code § 51.01)

13.16.020 Tampering with or injuring sewer system.

Any unauthorized entering, breaking, damaging, destroying, uncovering, defacing or tampering with any structure, equipment or appurtenance which is a part of the city sewerage systems shall be a violation of this chapter. (Prior code § 51.02)

13.16.030 City not responsible for duty of care.

This chapter is not intended to and shall not be construed or given effect in a manner that imposes upon the city and property within or without the city any duty of

care so as to provide a basis of civil liability for damages, except as otherwise imposed by law. (Prior code § 51.03)

13.16.040 Use of sewer required.

A. No method of sewage disposal other than disposal via sewer lines to the city's sewerage system shall be used for any premises on which sewage is produced within the city for any use, whether domestic, industrial, commercial, governmental, residential or other, which use is created on or after January 1, 1987, with the exception of those development projects that are eligible to utilize the city's interim on-site waste disposal system policy as set forth in subsection C below.

B. No method of sewage disposal other than disposal via sewer lines to the city's sewerage system shall be used for any premises on which sewage is produced within the city, whether domestic, industrial, commercial, institutional, residential or other, which use existed prior to January 1, 1987, with the exception of those uses that are eligible to utilize the city's interim on-site wastewater holding tank system policy as set forth in subsection C below; provided, however, that any user required by this chapter to convert to the city's sewerage system may request an extension of time to connect by appeal to the public works director in accordance with Section 13.16.290 where substantial hardship will be caused by compliance with this chapter. No more than one such extension shall be granted.

C. Notwithstanding any other requirements of this chapter, the use of an on-site wastewater holding tank system may be utilized when all of the following conditions are met, as verified by the public works and community development directors:

1. Land Use. Only proposed industrial or commercial uses shall be considered for use of an interim on-site wastewater holding tank system. Under no circumstances shall a new on-site system be permitted for any type of residential use.
2. Location. Only projects located within the McKinley Corridor area as defined by this policy or the central commercial or professional office zoned areas of the Lathrop Acres subdivision or the Harlan/Roth Road area as defined by this policy shall be considered for use of an interim on-site wastewater holding tank system. The McKinley Corridor is defined as the area designated under the general plan and currently zoned for service commercial and industrial uses bounded by Lathrop Road to the north, Yosemite Avenue to the south, the Southern Pacific Railroad right-of-way on the west and the Union Pacific Railroad right-of-way on the east. The Harlan/Roth Road area is defined as the area bounded by Warren Avenue on the south, Roth Road on the north, 1-5 on the west and Southern Pacific Railroad on the east.
3. Proximity to Existing Underground Sewers. In conformance with the California Plumbing Code, as amended, any site within two hundred (200) feet of an available municipal wastewater collection system must connect. Any such site that meets

this criterion shall not be considered for an interim on-site wastewater holding tank system.

4. Parcel Size. The minimum parcel size for a proposed commercial use subject to this policy shall be two acres. The minimum parcel size for a proposed industrial use subject to this policy shall be five acres.

5. County Approval. All interim on-site wastewater holding tank systems permitted with this policy shall be installed under permit and inspection of the San Joaquin County Environmental Health Department (EHD). In addition, a city building permit shall be obtained for installation of the system, after approval of the EHD.

6. Allowable Types of On-Site Wastewater Holding Tank Systems. The definition of “on-site wastewater holding tank system” shall mean only approved leakproof holding tanks that do not include leach fields and are pumped on a regular basis by a licensed waste hauler for disposal at an appropriate wastewater treatment facility. Also, only single parcel holding tank systems are proposed. Multiple parcel private systems are not recommended.

7. Type and Strength of Effluent. Only domestic-type sewerage shall be temporarily stored in an interim on-site wastewater holding tank system permitted by this policy. Under no conditions shall effluent that contains high BOD concentrations, toxic or hazardous chemicals/materials, food grease or by-products, or any kind of effluent that would necessitate pre-treatment prior to entering into the waste stream be allowed.

8. Commitment to Permanent Connection. Any development eligible to utilize this policy shall be required to enter into an agreement with the city to connect to the city’s public sewer system immediately upon the system becoming available to the subject site. In addition, payment of connection fees shall be required at time of building permit issuance at the current rate set forth by city council ordinance and/or resolution.

9. Commitment to Distribution System. Any development eligible to utilize this policy shall be required to enter into a lien agreement against the subject site as security for required sewer collection improvements along the frontage of the subject site. Such improvements shall include, but not be limited to the sewer main and connection lateral.

10. Highest Design Standards. The county has higher design and setback standards for on-site wastewater holding tank systems on parcels created after 1972. These standards shall be required for all new systems installed under this chapter.

11. Water Connection Required. Any development eligible to utilize this policy shall be required to connect to the public water system as a condition of the development. Any existing on-site wells shall be abandoned at time of connection. (Ord. 08-276 § 1 (part); Ord. 02-205 § 1; prior code § 51.15)

13.16.050 Domestic wastewater.

A. Plan Approvals and Permits not Transferable. Approval of plans for sewerage construction and trunk sewer connection permits are not transferable from one person to another person, or from one location to another location.

B. Discharge of Rainwater or Uncontaminated Water Prohibited. No person shall discharge or cause to be discharged any rainwater, stormwater, groundwater, street drainage, subsurface drainage, yard drainage, water from yard fountains, swimming pools, ponds, lawn sprays or any other uncontaminated water into any sewerage facility which directly or indirectly discharges to facilities owned by the city.

C. Prohibited Waste Discharges. General sewer use requirements including prohibited waste discharges to the sewer system are described in Section 13.26.020.

D. Industrial Wastewater Discharge Permit Requirement. No industrial wastewater shall be discharged to a trunk sewer or to a sewer discharging directly or indirectly to a trunk sewer until a permit for industrial wastewater discharge has been approved by the public works director in accordance with Section 13.26.050.

E. Manhole Reconstruction Notification. The work of adjusting manholes on city sewers to new grades will be performed by the contractor and in accordance with established procedures of the city. The person proposing or performing work necessitating the adjustment of manholes on city sewers to a new grade shall be responsible for notifying the city in advance of the work.

F. Improper Use of Connected Sewers. The city reserves the right to inspect any lateral or collecting sewer that discharge wastewater directly or indirectly to trunk sewers. If it is found that such lateral or collecting sewers are improperly used or improperly maintained, thereby causing discharge of septic wastewater, excessive groundwater, debris or any other objectionable substances to the city sewers, the public works director will give notice of the unsatisfactory condition to the offending discharger.

G. Noncompliance. In cases of continued noncompliance with the city directive, the city may disconnect the offending sewer from the city sewerage system. (Prior code § 51.16)

13.16.060 Excessive use of sewers prohibited—Maintenance expenses.

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

B. Any refusal to pay excessive maintenance expenses duly authorized by the public works director shall constitute a violation of these rules and regulations. (Prior code § 51.17)

13.16.075 Sewer System Management Plan.

Any and all provisions and requirements of any Council approved Sewer System Management Plan (SSMP) shall be enforceable by the City pursuant to the provisions of Sections 13.26.100 – 13.26.130 and any and all enforcement mechanisms available to the City by law.

13.16.090 Approval of plans—Issuance of permits.

A. The city must approve drawings and specifications for any sewage collection system or laterals which will be connected to the city sewerage system. Inspection by the city during construction and upon final completion is required.

B. The user must obtain a building permit from the city before any connection can be made to the city sewerage system. Final approval must be certified on the permit by the city inspector before service will be provided.

C. It shall be the duty of the user, or the person doing the work authorized by the user, to notify the city, orally or in writing, that the work is ready for inspection. Such notification shall be given not less than twenty-four (24) hours before the work is to be inspected. It shall be the duty of the person doing the work to be on the job site with the city inspector; in no case will work be accepted that cannot be visually checked.

D. The city may require that all fees and charges shall be paid before approval of plans, issuance of a permit, or an inspection certificate.

E. The approval of plans or issuance of a permit shall not relieve the discharger of any duty imposed upon him or her pursuant to this chapter. (Prior code § 51.30)

13.16.100 Approval of plans for sewerage construction.

A. No person contracting to do work for the user shall construct or cause to be constructed, or alter or cause to be altered any public sewer, lateral sewer, house or industrial connection sewer over six inches in diameter, sewage pumping plant, pollution control plant or other sewerage facility within the city where existing or proposed wastewater flows will discharge directly or indirectly to facilities of the city without first obtaining approval of sewerage construction plans from the public works director.

B. The applicant shall submit to the public works director for approval, construction plans and such specifications and other details as required to describe fully the proposed sewerage facility. Plans for sewerage construction shall not be approved for

any facility which will convey industrial wastewater unless the discharger has first obtained a city permit for industrial wastewater discharge.

C. An approval of plans for sewerage construction shall expire one year after the date of approval unless construction has been initiated. (Prior code § 51.31)

13.16.110 Sewer connections.

A. Plans for sewerage construction shall meet the design requirements of the city, including standard specifications and standard drawings.

B. Direct attachment of a sewer six inches or smaller in diameter to a trunk sewer will be permitted only if the public works director determines that a suitable local sewer is not available, that adequate trunk sewer capacity exists, that the connection will function properly, and that the connection will not adversely affect existing or anticipated facilities or operation of the city.

C. Sewers six inches or smaller in diameter to be attached directly to a trunk sewer shall be constructed in a manner and at the location specified by the city. Inspection of the connections to a trunk sewer shall be made by personnel of the city in the manner described in Section 13.16.050. (Prior code § 51.32)

13.16.120 Permit required—Application.

No work shall be undertaken on any building sewer, service sewer or connection until after the required permits have been obtained. Application shall be made on a form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the city. (Prior code § 51.33)

13.16.130 Service sewers.

A. The service sewers from the public sewer to the property line shall be installed at the time the sewer is constructed whenever practicable. The connection of service lines to trunk sewer lines shall be prohibited except when specifically approved by the city.

B. When a service sewer is not available, the connection to the lateral or trunk sewer line shall be made by the contractor or the city employees. Charges for the city to do such work shall be as established by the public works director.

C. The service sewer to the lateral sewer or trunk sewer line shall be the sole responsibility of the property owner. (Prior code § 51.34)

13.16.140 Sewer materials for service lines.

A. The sewer line beginning two feet from any building or structure may be constructed from any of the following materials:

1. Pipe Size.
 - a. Single service: four-inch diameter pipe minimum.
 - b. Double service: six-inch diameter pipe minimum.
2. Pipe Materials.
 - a. PVC, SDR 26.
 - b. Ductile iron pipe.

B. Service lines must be installed to the manufacturers' specifications. (Prior code § 51.35)

13.16.150 Building sewers—Grade.

Building sewers shall be run in practical alignment and at a uniform slope of not less than one-quarter of an inch per foot toward the point of disposal; provided, that where it is impractical to obtain a slope of one-quarter of an inch per foot, any such pipe may have a slope of not less than one-eighth of an inch per foot when approved by the city. The maintenance of the building sewer (from the building to the cleanout located at the public right-of-way or easement line) shall be the responsibility of the property owner. (Prior code § 51.36)

13.16.160 Cleanouts.

A. Cleanouts are to be installed as shown on standard drawings, available from the public works director. A two-way cleanout shall be provided at the beginning of the building sewer, and shall not be closer than two feet from any building or structure.

B. A cleanout shall be installed outside of and adjacent to the subscribed property line. The maintenance of access to the cleanout shall be the responsibility of the property owner.

C. Cleanouts shall be placed in every building sewer at intervals not to exceed one hundred (100) feet in straight runs.

D. Every change in alignment or grade in excess of forty-five (45) degrees in a building sewer shall be served by a cleanout.

E. Each cleanout shall be installed so that it opens in a direction opposite to the flow of the sewage or waste or at right angles thereto, and except in the case of wye branch and end-of-line cleanouts, vertically above the flow of the pipe.

F. All cleanouts shall be made accessible by concrete boxes with the cover exposed approximately one inch above the grade. (Prior code § 51.37)

13.16.170 Sewer and water pipes.

A. The bottom of the water piping at all points shall be at least twelve (12) inches above the top of the sewer piping. A minimum of 10 feet horizontal separation between water and sewer lines shall be maintained in accordance with Chapter 16 of Title 22, California Administrative code. In the event that such clearance cannot be maintained, water and sewer pipe insulation shall conform to the separation criteria established by the State Department of Public Health.

B. The water piping shall rest on a solid shelf at one side of the common trench. (Prior code § 51.38)

13.16.180 Inspection of construction and sewer service connections.

A. All sewers to be attached directly to the city system shall be inspected by personnel of the city during construction.

B. No wastewater shall be discharged into any sewerage facility tributary to a city facility prior to obtaining inspection and approval of sewerage construction by the city.

C. It shall be the duty of the applicant or the person doing the work authorized by the applicant to notify the city orally or in writing that said work is ready twenty-four (24) hours before the work is to be inspected. It is required that the person responsible for the work be on the job site with the city representative during the inspection. Work will not be accepted that cannot be visually checked. Following satisfactory completion of construction, the city will complete the inspection forms and authorize sewer service to the applicant. (Prior code § 51.39)

13.16.190 Reimbursement for construction of sewers.

A. Where an applicant for sewer service is so located that it is necessary to construct or cause to be constructed a new main, service line, pump, lift station or other sewer facilities, or to expand or replace such facilities, the applicant shall be responsible for such work. The city may require that such work be oversized in order to provide for future use by others of such work, and, in the event the city so requires, the cost of such oversizing shall be determined, and the city may require future users of such facilities to reimburse the original builder for a proportionate share of the cost of such oversizing. Such proportionate share shall be based on frontage of the land or lands of the future user, will be collected at the time of connection to the works, and reimbursed to the

original builder within thirty (30) days of collection. In no event shall the city be liable for reimbursement to the original builder unless and until such reimbursement is collected from the new users. In no event shall the city be liable for failure to make such collection. No such collection or reimbursement will be made after ten (10) years from the date of completion of the original work or works.

B. This section is not intended to, and shall not be construed or given effect in a manner that imposes upon the city or any officer or employee thereof a mandatory duty of care towards persons and property within or without the city so as to provide a basis of civil liability for damages, except as otherwise imposed by law. (Prior code § 51.40)

13.16.200 Recording of fees and charges.

The public works director shall keep a permanent and accurate account of all fees and charges received under this chapter, giving the names and addresses of the persons on whose account the fees and charges were paid, the date and amount thereof and the purpose for which charges were paid. (Prior code § 51.50)

13.16.210 Estimated quantities and values.

Unless otherwise provided herein, whenever the fees and charges required by this chapter are based on estimated values or estimated quantities, the public works director shall make such determinations in accordance with established estimating practices. (Prior code § 51.51)

13.16.220 Sewer connection fee.

The sewer connection fee shall be paid at the time of obtaining the permit. (Prior code § 51.52)

13.16.230 Additional fees and charges.

A. The deposit for sewer service shall apply as for water service in Section 13.20.020. However, the total deposit for water and sewer service shall not exceed the amount in Section 13.20.020(A).

B. The council by resolution may establish fees for the administration of the sewer construction, industrial wastewater discharge permit and inspection program.

C. The applicant for an industrial wastewater discharge permit shall pay the actual cost of checking pretreatment facility plans.

D. Any application requesting the transfer of wastewater treatment capacity shall pay a processing fee of five hundred dollars (\$500.00) to cover the cost of processing the request. The city council may amend or establish, by resolution, processing fees for the transfer of wastewater treatment capacity.

E. Any applicant requesting a sewer connection in the Manteca Regional Water Quality Control Facility (WQCF) service area shall pay a fee of five thousand seven hundred and seventy-nine dollars (\$5779.00) per dwelling unit. The city council may amend or establish, by resolution, a sewer connection fee in the Manteca Regional Water Quality Control Facility (WQCF) service area.

F. Any applicant located within the Crossroads Industrial Park requesting to connect to the Crossroads wastewater treatment plant shall pay a discharge fee of twenty-four dollars and seventy-eight cents (\$24.78)/gallons per day for their estimated usage at the time of obtaining a permit. The city council may amend or establish discharge fees for the connection to the Crossroads wastewater treatment plant. (Ord. 04-243 § 1; Ord. 03-212 § 1; Ord. 02-204 § 1; Ord. 02-202 § 1; Ord. 02-201 § 1; Ord. 00-183 § 1: prior code § 51.53)

13.16.240 Standby charges for Crossroad users.

A. Each property owner of the properties listed in Attachment “A” to Ordinance 97-144, passed 7-15-97, shall pay the standby charge indicated for crossroad users on a per parcel basis, until such time properties are developed and connected to the sewer system.

B. Any such property owner shall also pay usage fees according to Section 13.16.250 of this code.

C. Such standby charges shall be due and payable on a monthly basis and shall be included in the utility bill described in Chapter 13.20 of this code.

D. Failure to pay such standby charges as they become due and payable shall authorize the city to create a lien against the property for which standby capacity has been allocated in accordance with Attachment “A” of Ordinance 97-144, passed 7-15-97. Such charge may be added to and collected with the tax charges or assessments for the current year, and property may be sold in the same manner as sale of property pursuant to state law. (Prior code § 51.54)

13.16.250 User rates for Manteca WQCF, Lathrop WRP-1 (MBR) and Crossroads users.

A. Manteca WQCF (for users served by the Manteca WQCF approximately located east of Interstate 5 and North of Louise Avenue).

1. Residential Monthly Flat Rates.

| | Effective March 4, 2009 | Effective January 1, 2010 | Effective January 1, 2011 |
|---------------|------------------------------------|--------------------------------------|--------------------------------------|
| Single-Family | \$39.10 | \$45.00 | \$51.80 |
| Multifamily | \$28.80 | \$33.20 | \$38.20 |

Appendix B - Element 3: (Legal Authority)

2. Nonresidential Monthly Service Charges (per meter size).

| Meter Size | Effective March 4, 2009 | Effective January 1, 2010 | Effective January 1, 2011 |
|-------------------|------------------------------------|--------------------------------------|--------------------------------------|
| 5/8" | \$16.76 | \$18.82 | \$21.12 |
| 3/4" | \$16.76 | \$18.82 | \$21.12 |
| 1" | \$16.76 | \$18.82 | \$21.12 |
| 1 1/2" | \$16.76 | \$18.82 | \$21.12 |
| 2" | \$16.76 | \$18.82 | \$21.12 |
| 3" | \$16.91 | \$19.13 | \$21.64 |
| 4" | \$16.76 | \$18.82 | \$21.12 |
| 6" | \$16.76 | \$18.82 | \$21.12 |
| 8" | \$16.76 | \$18.82 | \$21.12 |

3. Nonresidential Variable Rate (dollars per one thousand (1,000) gallons of water use).

| Strength | Effective March 4, 2009 | Effective January 1, 2010 | Effective January 1, 2011 |
|-------------------------|------------------------------------|--------------------------------------|--------------------------------------|
| Low Strength | \$2.26 | \$2.66 | \$3.13 |
| Medium Low Strength | \$2.71 | \$3.18 | \$3.73 |
| Medium Strength | \$4.06 | \$4.73 | \$5.52 |
| Medium High Strength | \$5.41 | \$6.29 | \$7.31 |
| High Strength | \$9.00 | \$10.43 | \$12.09 |

B. Crossroads wastewater treatment plant (for users served by the Crossroads facility approximately located east of Interstate 5 and South of Louise Avenue, also including areas west of the westerly Union Pacific Railroad).

1. Crossroads wastewater service shall be billed monthly; all wastewater usage occurring on and after July 14, 2004 shall be billed in accordance with the following schedule:

2. Nonresidential Monthly Service Charges (per meter size).

| Meter Size | Effective March 4, 2009 | Effective January 1, 2010 | Effective January 1, 2011 |
|-------------------|------------------------------------|--------------------------------------|--------------------------------------|
| 5/8" | \$89.98 | \$107.81 | \$981.80 |
| 3/4" | \$132.96 | \$159.31 | \$981.80 |
| 1" | \$218.92 | \$262.31 | \$981.80 |
| 1 1/2" | \$433.82 | \$519.81 | \$981.80 |
| 2" | \$691.70 | \$828.80 | \$981.80 |
| 3" | \$1,044.60 | \$1,017.60 | \$981.80 |

Appendix B - Element 3: (Legal Authority)

| Meter Size | Effective March 4, 2009 | Effective January 1, 2010 | Effective January 1, 2011 |
|-------------------|------------------------------------|--------------------------------------|--------------------------------------|
| 4" | \$1,548.80 | \$1,287.40 | \$981.80 |
| 6" | \$3,094.72 | \$2,572.40 | \$981.80 |
| 8" | \$4,949.82 | \$4,114.41 | \$981.80 |

3. Monthly Nonresidential Variable Rate (dollars per one thousand (1,000) gallons of water use). In addition to the charge set forth above, those customers whose property is located in the Crossroads area will be charged in accordance with the following schedule:

| Strength | Effective March 4, 2009 | Effective January 1, 2010 | Effective January 1, 2011 |
|----------------------|------------------------------------|--------------------------------------|--------------------------------------|
| Low Strength | \$17.26 | \$18.47 | \$19.76 |
| Medium Low Strength | \$18.44 | \$19.73 | \$21.12 |
| Medium Strength | \$22.00 | \$23.54 | \$25.18 |
| Medium High Strength | \$28.11 | \$30.08 | \$32.18 |
| High Strength | \$34.23 | \$36.62 | \$39.18 |

4. Nonresidential Variable Rate for Swiss American Sausage. These industrial rates are applicable to determined sewer flows, (per one thousand (1,000) gallons of sewer flow) rather than water usage.

| Strength | Effective July 14, 2004 | Effective May 15, 2005 | Effective May 15, 2006 |
|-------------------------------------|------------------------------------|-----------------------------------|-----------------------------------|
| Industrial — Swiss American Sausage | \$9.80 | \$11.27 | \$11.83 |

C. Lathrop Water Recycling Plant No. 1 – MBR (for users served by the Lathrop WRP-1 (MBR) facility approximately located west of Interstate 5).

1. Residential Monthly Flat Rates.

| | Effective March 4, 2009 | Effective January 1, 2010 | Effective January 1, 2011 |
|---------------|------------------------------------|--------------------------------------|--------------------------------------|
| Single-Family | \$38.02 | \$42.59 | \$47.70 |
| Multifamily | \$31.28 | \$35.04 | \$39.25 |

2. Nonresidential Monthly Service Charges (per meter size).

| Meter Size | Effective March 4, 2009 | Effective January 1, 2010 | Effective January 1, 2011 |
|-------------------|------------------------------------|--------------------------------------|--------------------------------------|
| 5/8" | \$15.33 | \$16.55 | \$17.91 |

Appendix B - Element 3: (Legal Authority)

| Meter Size | Effective March 4, 2009 | Effective January 1, 2010 | Effective January 1, 2011 |
|-------------------|------------------------------------|--------------------------------------|--------------------------------------|
| 3/4" | \$15.33 | \$16.55 | \$17.91 |
| 1" | \$15.33 | \$16.55 | \$17.91 |
| 1 1/2" | \$15.33 | \$16.55 | \$17.91 |
| 2" | \$15.33 | \$16.55 | \$17.91 |
| 3" | \$15.33 | \$16.55 | \$17.91 |
| 4" | \$15.33 | \$16.55 | \$17.91 |
| 6" | \$15.33 | \$16.55 | \$17.91 |
| 8" | \$15.33 | \$16.55 | \$17.91 |

3. Nonresidential Variable Rate (dollars per one thousand (1,000) gallons of water use).

| Strength | Effective March 4, 2009 | Effective January 1, 2010 | Effective January 1, 2011 |
|-------------------------|------------------------------------|--------------------------------------|--------------------------------------|
| Low Strength | \$1.82 | \$2.10 | \$2.41 |
| Medium Low Strength | \$2.09 | \$2.41 | \$2.76 |
| Medium Strength | \$2.97 | \$3.42 | \$3.92 |
| Medium High Strength | \$3.83 | \$4.40 | \$5.06 |
| High Strength | \$6.12 | \$7.04 | \$8.08 |

(Ord. 09-2671 § 2, Ord. 04-240 § 1; Ord. 04-236 § 1; Ord. 04-235 § 2: Ord. 04-230 § 2; Ord. 04-229 § 3: Ord. 02-209 § 2: Ord. 01-193 § 2; Ord. 99-177 § 1: prior code § 51.55)

13.16.255 Payment assistance program—Sewer service.

A. Any sewer service customer who is currently enrolled in or is eligible for a payment assistance program with Pacific Gas and Electric (currently known as “CARE”) shall also be eligible for a rate reduction as described by this section. For purposes of this section, “sewer service customer” shall mean an individual residential consumer or multi-family residential property owner. In order to obtain the assistance provided for in this section, multifamily residential owners shall provide proof of eligibility for each unit as set forth below.

B. A sewer service customer who presents a current Pacific Gas and Electric bill that indicates that the customer is eligible or enrolled in the CARE program shall receive a ten percent (10%) reduction in their flat monthly service charge.

C. Customers who qualify for the payment assistance program must provide a copy of their Pacific Gas and Electric bill described in subsection A each June 1st for the city to re-verify eligibility. If a customer does not provide a copy of the bill by June 30th

of each year, or if the customer is no longer eligible for the CARE program, then the customer shall no longer be eligible for the payment assistance program and shall not receive a reduction in rates. (Ord. 04-239 § 1; Ord. 02-211 § 2)

13.16.260 Public works director to have authority.

Except as otherwise provided herein, the public works director shall administer, implement and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the public works director may be delegated by the public works director to persons in the employ of the city. (Prior code § 51.60)

13.16.270 Notification of violation.

A. The public works director shall notify any person found to be in violation of this chapter, or of any limitation or requirement of a permit issued herein before the public works director takes any action to implement the penalty provisions of this chapter, and the public works director shall take no such action until ten (10) days after the date notice is given.

B. Unless otherwise provided herein, any notice required to be given by the public works director under this chapter shall be in writing and served in person or by registered or certified mail. If served by mail, the notice shall be sent to the last address known to the public works director. Where the address is unknown, service may be made upon the owner of record of the property involved. Notice shall be deemed to have been given at the time of deposit, postage prepaid, in a facility regularly serviced by the United States Postal Service. (Prior code § 51.61)

13.16.280 Inspections to be made—Interference with inspectors prohibited.

A. Inspection of every facility that is involved directly or indirectly with the discharge of wastewater to the city sewerage systems may be made by the city as deemed necessary. These facilities shall include, but not be limited to sewers; sewage pumping plants; pollution control plants; all industrial processes; industrial wastewater generation, conveyance and pretreatment facilities, devices and connection sewers; and all similar sewage facilities. Access to all facilities directly or indirectly connected to the city sewerage systems shall be given to authorized personnel of the city at all reasonable times, including those occasioned by emergency conditions. Any permanent or temporary obstruction to easy access to the sewerage facility to be inspected shall promptly be removed by the facility user or owner at the written or verbal request of the public works director and shall not be replaced.

B. No person shall interfere with, delay, resist or refuse entrance to an authorized city inspector attempting to inspect any wastewater generation, conveyance or treatment facility connected directly or indirectly to the city sewerage systems. (Prior code § 51.62)

13.16.290 Appeal procedures.

A. Any user adversely affected by any decision, action or determination made by or on behalf of the city in interpreting or implementing the provisions of this chapter or any permit issued hereto, may file with the city a written request for reconsideration. Such request shall be acted upon by the public works director within forty-five (45) days from the date of filing.

B. If the ruling made by the public works director is unsatisfactory to the person requesting reconsideration, the person may make a written appeal forty-five (45) days after notice of the action taken by the public works director.

C. The written appeal shall state all the pertinent aspects of the matter. Within forty-five (45) days after the written appeal is received, the council shall hold a hearing on this matter. At this hearing, the discharger may appear personally or through counsel, cross-examine witnesses, and present evidence in his own behalf. Notice of the hearing shall be given at least fifteen (15) days prior to the date of hearing. Within forty-five (45) days after the hearing is closed, the city council shall make a final ruling on the appeal. (Prior code § 51.63)

13.16.300 Legal remedies.

The city may, upon authorization of its city council, sue to recover any amounts due the city under the provisions of this chapter. (Prior code § 51.64)

13.16.310 Civil liability.

A. Any person, who intentionally or negligently violates any provision of this chapter pertaining to the subject matter of either subsection (A)(1) and (2) below, or any condition or limitation of a permit or plan approval related thereto shall be civilly liable to the city for each day in which such violation occurs.

1. The pretreatment of any industrial wastewater which would otherwise be detrimental to the treatment works or its proper and efficient operation and maintenance;

2. The prevention of the entry of such wastewater into the collecting system and treatment works.

B. In the event of such violation, the city shall, upon authorization of its city council, petition the superior court to impose, assess and recover such sums. (Prior code § 51.65)

13.16.320 Violation—Penalty.

A. The violation of any provision of this chapter, including the failure to pay any fees, charges or surcharges imposed hereby, or any condition or limitation of a permit or a plan approval issued pursuant thereto is a misdemeanor, and violation is punishable by imprisonment in the county jail for not exceeding six months, or by a fine not

exceeding one thousand dollars (\$1,000.00) or both. In addition, any person violating any such provisions may be civilly liable as specified herein.

B. Each day during which any violation continues shall constitute a separate offense.

(Prior code § 51.99)

Chapter 13.26 SEWER USE AND INDUSTRIAL WASTEWATER REGULATIONS

13.26.010 General provisions.

A. Purpose and Policy. This chapter sets forth uniform requirements for users of the publicly owned treatment works for the city of Lathrop and enables the city to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code § 1251 et seq.). The objectives of this chapter are:

1. To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;

2. To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works;

3. To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

4. To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;

5. To enable the city to comply with its national pollutant discharge elimination system permit conditions, sludge use and disposal requirements, and any other federal, state, or county laws to which the publicly owned treatment works is subject.

B. Condition or Denial of Waste Discharge. This chapter establishes the right of the city to condition or deny any waste discharge into the city sewer system. The chapter authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established in this chapter.

C. Administration. Except as otherwise provided herein, the director of public works shall administer, implement, and enforce the provisions of this chapter. Any

Appendix B - Element 3: (Legal Authority)

powers granted to or duties imposed upon the director of public works may be delegated by the director of public works.

D. Abbreviations.

| | |
|--------|---|
| BOD | Biochemical Oxygen Demand |
| CFR | Code of Federal Regulations |
| COD | Chemical Oxygen Demand |
| EPA | U.S. Environmental Protection Agency |
| gpd | gallons per day |
| mg/L | milligrams per liter |
| ug/L | micrograms per liter |
| NPDES | National Pollutant Discharge Elimination System |
| POTW | Publicly Owned Treatment Works |
| RCRA | Resource Conservation and Recovery Act |
| SIC | Standard Industrial Classification |
| TDS | Total Dissolved Solids |
| TSS | Total Suspended Solids |
| U.S.C. | United States Code |
| WWTP | Wastewater Treatment Plant |

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

“Act” or “the Act” means the Federal Waste Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. Section 1251 et seq.

“Additional inclusions” means violations of compliance schedule milestones, by ninety (90) days or more after the schedule date; failure to provide reports within thirty (30) days from the due date; failure to accurately report noncompliance and any other violation or group of violations that the city considers to be significant.

“Agent” means any person designated, or retained by the city, to conduct monitoring of businesses regulated under this chapter.

“Approval authority” means the state of California Regional Water Quality Control Board—Central Valley Region (RWQCB-CVR).

Authorized representative of the user.

1. If the user is a corporation:

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

b. The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000.00) (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

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

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

4. The individuals described in subsections A through C of this section, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

“Biochemical oxygen demand (BOD)” means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at twenty (20) degrees centigrade, usually expressed as a concentration measured in milligrams per liter (mg/l).

“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. Section 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

“City” means the city of Lathrop, California; the city council of Lathrop; or other duly authorized official of the city of Lathrop. The city official is responsible for implementation of this chapter.

“Director of public works” means the city official, or his or her duly authorized agent, responsible for implementation of this chapter.

“Discharger” means any person discharging industrial waste to the city sanitary sewer system. This term specifically includes any categorical user connected to the city sanitary sewer, whether or not they discharge process wastewater. It also includes any facilities with a reasonable potential for discharging significant quantities of industrial waste, whether or not they are currently discharging process wastewater.

“Environmental Protection Agency” or “EPA” means the U.S. Environmental Protection Agency, or where appropriate, the regional water management division director, or other duly authorized official of such agency.

“Existing source” means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

“Fat, oil and grease (FOG)” is defined by the method of analysis. As applicable to this chapter, “fat, oil and grease (FOG)” means the total n-hexane extractable material (HEM) as measured in EPA Method 1664. Petroleum based FOG, or O and G, is the portion of the material measured in the EPA Method 1664 as the silica-gel treated n-hexane extractable material (SGT-HEM). “Animal/vegetable-based FOG” means the mathematical difference between the total n-hexane extractable material and the silica-gel treated n-hexane extractable M materials measured in EPA Method 1664.

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

“Indirect discharge” or “discharge” means the introduction of pollutants into the POTW from any nondomestic source regulated under Sections 307(b), (c), or (d) of the Act.

“Interference” means a discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefor, is a cause of a violation of the city’s NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); standards for the use and disposal of sewage sludge (40 CFR 503); the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

“Medical waste” means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

“Municipal Code” means the Lathrop Municipal Code of chapters.

“New source” means:

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

Appendix B - Element 3: (Legal Authority)

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

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

c. The production of wastewater generating processes of the building, structure, facility, or installation is substantially independent of any existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

2. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of above subsections but otherwise alters, replaces, or adds to existing process or production equipment.

3. Construction of a new source as defined under this subsection has commenced if the owner or operator has:

a. Begun, or caused to begin, as part of a continuous on-site construction program.

i. Any placement, assembly, or installation of facilities or equipment; or

ii. Significant site preparation work, including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment.

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used to its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

“Noncontact cooling water” means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

“Pass through” means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city’s NPDES permit, including an increase in the magnitude or duration of a violation.

Appendix B - Element 3: (Legal Authority)

“Person” means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state and local governmental entities.

“pH” means a measure of the acidity or alkalinity of a solution, expressed in standard units.

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

“Pretreatment” means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

“Pretreatment requirements” means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

“Pretreatment standards” or “standards” means prohibited discharge standards, categorical pretreatment standards, and local limits.

“Process wastewater” means any water, which during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

“Prohibited discharge standards” or “prohibited discharges” means absolute prohibitions against the discharge of certain substances; these prohibitions appear in Sections 13.26.020(A) and (B) of this chapter.

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

“Septic tank waste” means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers and septic tanks.

“Service area” means the geographical area served by a specific wastewater treatment plant.

“Sewage” means human excrement and gray water (household showers, dishwashing operations, etc.)

“Shall” is mandatory and “may” is permissive.

“Significant industrial user” means:

1. A user subject to categorical pretreatment standards; or
2. A user that:
 - a. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater),
 - b. Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant, or
 - c. Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement;
3. Upon a finding that a user meeting the criteria in above subsection of this section, has no reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

“Slug load” or “slug” means any discharge of a nonroutine, episodic nature, including, but not limited to, a bypass of the pretreatment system, or a noncustomary batch discharge released at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 13.26.020 of this chapter.

“Standard Industrial Classification (SIC) Code” means a classification pursuant to the standard industrial classification manual issued by the United States Office of Management and Budget.

“Storm water” means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

“Total suspended solids” means the total suspended matter that floats on the surface of, is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

“User” or “industrial user” means a source of indirect discharge.

“Wastewater” means liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

“Wastewater treatment plant” or “treatment plant” means that portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste. (Ord. 05-254 § 2 (part))

13.26.020 General sewer use requirements.

A. Prohibited Discharge Standards.

1. General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

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

a. Pollutants which create a fire or explosive hazard in the POTW, including but not limited to, wastestreams with a closed-cup flashpoint of less than one hundred forty (140)°F (sixty (60)°C) using the test methods specified in 40 CFR 261.21;

b. Wastewater having a pH less than six, or greater than twelve and one-half (12.5), or otherwise causing corrosive structural damage to the POTW or equipment;

c. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference;

d. Pollutants, including oxygen-demanding pollutants (BOD etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

e. Wastewater having a temperature greater than one hundred twenty (120)°F (forty-nine (49)°C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed one hundred four (104)°F (forty (40)°C);

Appendix B - Element 3: (Legal Authority)

- f. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- g. 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;
- h. Trucked or hauled pollutants, except at discharge points designed by the city;
- i. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- j. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently impart color to the treatment plant's effluent, thereby violating the city's NPDES permit;
- k. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable federal regulations and the "California Radiation Control Regulations," CCR Title 23, Sections 30100 et seq.;
- l. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the city;
- m. Sludges, screening, or other residues from the pretreatment of industrial wastes;
- n. Medical wastes, except as specifically authorized by the city in a wastewater discharge permit;
- o. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- p. Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
- q. Fats, oils, or greases of animal or vegetable origin in concentrations greater two hundred (200) mg/l;
- r. Hazardous waste, as defined by Title 22 of the California Code of Regulations, without prior written approval of the city. Any discharge in excess of one-half percent of the average daily dry weather flow of the treatment plant providing treatment services without prior written approval of the city;

Appendix B - Element 3: (Legal Authority)

t. Any solid material not capable of passing through a three-eighths inch mesh screen.

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

B. National Categorical Pretreatment Standards. The national categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are incorporated. Categorical pretreatment standards apply at the end-of-process, defined as the point at which the process wastewaters enters the general wastewater from the facility and prior to co-mingling with any diluting wastestream.

1. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the city may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

2. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the city shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

3. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

4. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

C. Reserved.

D. Local Limits. The following pollutant limits are established to protect against pass through and interference. All concentrations for metallic substances are for “total” metals unless indicated otherwise. The city may impose mass limitations in addition to, or in place of, the concentration-based limitations of subsection (D)(1) of this section. Where a user is subject to a categorical pretreatment standard and a local limit for a given pollutant, the more stringent limit shall apply.

1. Concentration Based Local Limits. No user shall discharge wastewater containing in excess of the following daily maximum allowable discharge limits:

| Pollutant (Total Metals) | Symbol | Maximum Daily Concentrations Limit (mg/l) |
|---------------------------------|---------------|--|
| Beryllium | Be | 6.0 |
| Boron | B | 12 |
| Chloride | Cl- | 100 |
| Sodium | Na | 100 |
| Arsenic | As | 0.1 |

Appendix B - Element 3: (Legal Authority)

| Pollutant (Total Metals) | Symbol | Maximum Daily Concentrations Limit (mg/l) |
|---------------------------------|---------------|--|
| Barium | Ba | 12 |
| Cadmium | Cd | 0.12 |
| Chromium | Cr | 0.6 |
| Copper | Cu | 2.4 |
| Lead | Pb | 0.6 |
| Manganese | Mn | 0.6 |
| Mercury | Hg | 0.005 |
| Molybdenum | Mo | 0.06 |
| Nickel | Ni | 1.0 |
| Selenium | Se | 0.12 |
| Silver | Ag | 0.6 |
| Tin | Sn | 24 |
| Vanadium | V | 1.2 |
| Zinc | Zn | 1.0 |
| Cyanide | CN | 0.2 |

2. **Mass Based Local Limits.** The following discharges of pollutants released in concentrations greater than the following maximum daily limits are not permitted, unless approved in writing by the city. The city may establish mass based limits for these pollutants if the user demonstrates the potential to cause pass through or interference. The mass allocation shall be made from the available, unused treatment capacity of the city’s wastewater treatment plant providing treatment services for the specific industrial user. The city may develop equivalent concentration limits based on the mass allocation.

| Pollutant | Allowable Daily Maximum without Mass Limit mg/l |
|---------------------------|--|
| Biochemical oxygen demand | 400 |
| Total suspended solids | 400 |
| Total dissolved solids | 700 |
| Ammonia (as Nitrogen) | 25 |
| Nitrogen, Total | 40 |
| Nitrite (as N) | 25 |
| Nitrate (as N) | 250 |

3. **Limits Applied at “End-of-Pipe.”** The limits established in this section apply at the point where the wastewater is discharged to the POTW (end-of-pipe).

4. **Best Management Practices.**

i. Small volume dischargers of noncategorical wastestreams may utilize “best management practices” to comply with the limitations of subsections (D)(1) and (D)(2) of this section. “Best management practices” (BMP) consists of a written program designed to reduce the concentration of a specific pollutant or group of pollutants. BMPs

should cover source reduction and/or substitution, reuse, pretreatment, monitoring, documentation, and inspections. All best management practices programs must be approved in writing by the city.

ii. The city may require any user to develop and implement a “Best management practices” program to facilitate compliance to this chapter and/or a wastewater discharge permit. “Best management practices” may be a formal pollution prevention program.

E. Right of Revision. The city of Lathrop reserves the right to establish, by chapter or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW. The city reserves the right to establish, by chapter or in wastewater discharge permits, discharge limitations or prohibitions for pollutants not specifically listed in this chapter.

F. Dilution. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The city may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate. (Ord. 05-254 § 2 (part))

13.26.030 Pretreatment of wastewater.

A. Pretreatment Facilities. Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all wastewater discharge permit limitations and requirements, the general and specific prohibitions set out in Section 13.26.020(A) of this chapter, the national categorical pretreatment standards adopted in Section 13.26.020(B) of this chapter, and the local limits set out in Section 13.26.020(D) of this chapter. Compliance shall be achieved within the time limitations specified by the EPA, the state, or the city, whichever is more stringent. Any wastewater treatment equipment or facilities necessary for compliance shall be provided, operated, and maintained at the user’s expense. Detailed plans describing such facilities and operating procedures shall be submitted to the city for review, and shall be acceptable to the city before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under the provisions of this chapter.

B. Additional Pretreatment Measures.

1. Whenever deemed necessary, the city may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be

necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.

2. The city may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

3. Grease, oil and sand interceptors shall be provided when, in the opinion of the city, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the city and shall be located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

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

C. Accidental Discharge/Slug Control Plans. At least once every two years, the city shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The city may require any user to develop, submit for approval, and implement such a plan. Alternatively, the city may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

1. Description of discharge practices, including nonroutine batch discharges;
2. Description of stored chemicals;
3. Procedures for immediately notifying the city of an accidental or slug discharge, as required by Section 13.26.020(G) of this chapter; and
4. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response. (Ord. 05-254 § 2 (part))

13.26.040 User survey.

When requested by the city, a user must submit information on the general business conducted, and the sources, nature and characteristics of its wastewater within ninety (90) days of the request. The city is authorized to prepare a form for this purpose and may periodically require users to update this information. (Ord. 05-254 § 2 (part))

13.26.050 Wastewater discharge permits.

A. Wastewater Discharge Permit Requirement.

1. No significant industrial user (SIU) shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the city, except that an existing significant industrial user that has filed a timely application pursuant to subsection D of this section may continue to discharge for the time period specified therein.

2. The city may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this chapter.

3. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this chapter and subjects the wastewater discharge permit holder to the sanctions set out in Sections 13.26.100 through 13.26.130 of this chapter. Obtaining a wastewater discharge permit does not relieve a permit holder of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state and local law.

4. No vested rights, of any type whatsoever, of discharge to, or sewerage capacity in, the sanitary sewer system is created by the issuance of a wastewater discharge permit.

B. Wastewater Discharge Permitting—Existing Users. Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of the ordinance codified in this chapter and who wishes to continue such discharges in the future, shall within thirty (30) days after such date, apply to the city for a wastewater discharge permit in accordance with subsection D of this section, and shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of the ordinance codified in this chapter except in accordance with a wastewater discharge permit issued by the city.

C. Wastewater Discharge Permitting—New Sources. Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit in accordance with subsection D of this section must be filed at least sixty (60) days prior to the date upon which any discharge will begin or recommence.

D. Wastewater Discharge Permit Application Contents. All users required to obtain a wastewater discharge permit must submit a permit application. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision. The city may require all users to submit as part of an application the following information:

1. The name of the owner(s) of the business, mailing address, physical address of the permitted facility, authorized representative name, title, and contact information, business name that will be used, and consultant identification and contact information;
2. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
3. Number of employees, days of operation and proposed or actual hours of operations;
4. Each product produced by type, amount, process or processes, and the rate of production;
5. Type and amount of raw materials processed (average and maximum per day);
6. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
7. Time and duration of discharges;
8. Daily volume of wastewater to be discharged, the wastewater characteristics of the untreated and treated discharge, type and capacity of pretreatment processes to be used;
9. Identification of each production process for which national categorical pretreatment standard is applicable;
10. Type of monitoring equipment to be used (flow meter, sampler, etc.); and
11. Any other information as may be deemed necessary by the city to evaluate the wastewater discharge permit application.

E. Application Signatories and Certification. All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user with the certification statement as specified in Section 13.26.060(A) of this chapter.

F. Wastewater Discharge Permit Decisions. The city will evaluate the data furnished by the user and may require additional information. Within thirty (30) days of receipt of a complete wastewater discharge permit application, the city will determine whether or not to issue a wastewater discharge permit. The city may deny any application for a wastewater discharge permit.

G. Wastewater Discharge Permit Duration. A wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the city. Each wastewater discharge permit will indicate a specific date upon which it will expire. Wastewater discharge permits shall be void upon cessation of operations.

H. Wastewater Discharge Permit Contents. A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the city to prevent pass through or interference, protect the quality of the water body receiving 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:

a. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five years;

b. A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with subsection K of this section, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

c. Effluent limits based on applicable pretreatment standards;

d. Self-monitoring, sampling, reporting, notification, record-keeping and reporting requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state and local law; and

e. 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.

2. Wastewater discharge permits may contain, but need not be limited to, the following conditions:

a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

b. Requirements for the installation of pretreatment technology, pollutant control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

- c. Requirements for the development and implementation of spill control plans or other special conditions, including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
 - d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
 - e. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
 - f. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
 - g. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
 - h. Other conditions as deemed appropriate by the city to ensure compliance with this chapter, and state and federal laws, rules and regulations.
- I. Wastewater Discharge Permit Appeals. Any person may petition the director of public works to reconsider the terms or a wastewater discharge permit within thirty (30) days of notice of its issuance. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal. If the director of public works fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider, not to issue, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the appropriate court for Merced County within the statute of limitations.
- J. Wastewater Discharge Permit Modification. The city may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:
- 1. To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
 - 2. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

Appendix B - Element 3: (Legal Authority)

3. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
4. Information indicating that the permitted discharge poses a threat to the city's POTW, personnel, or the receiving waters;
5. Violation of any terms or conditions of the wastewater discharge permit;
6. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
7. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
8. To correct typographical or other errors in the wastewater discharge permit; or
9. To reflect a transfer of the facility ownership or operation to a new owner or operator.

K. **Wastewater Discharge Permit Transfer.** Wastewater discharge permits are site specific. Wastewater permits shall not be transferable from one geographic location to another. Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least sixty (60) days advance notice to the city and the city approves the wastewater discharge permit transfer. Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of the transfer of ownership. The notice to the city must include a written certification by the new owner or operator which:

1. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
2. Identifies the specific date on which the transfer is to occur; and
3. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

L. **Wastewater Discharge Permit Revocation.** The city may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

1. Failure to notify the city of significant changes to the wastewater prior to the changed discharge;
2. Failure to provide prior notification to the city of changed conditions pursuant to Section 13.26.060(F) of this chapter;

3. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
4. Falsifying self-monitoring reports;
5. Tampering with monitoring equipment;
6. Refusing to allow the city timely access to the facility premises and records;
7. Failure to meet effluent limitations, violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this chapter;
8. Failure to pay fines;
9. Failure to pay sewer charges;
10. Failure to meet compliance schedules;
11. Failure to complete a wastewater survey or the wastewater discharge permit application; or
12. Failure to provide advance notice of the transfer of business ownership of a permitted facility.

M. **Wastewater Discharge Permit Reissuance.** A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with subsection D of this section, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit. A user, whose existing wastewater discharge permit has expired and has submitted its re-application in the time period specified in this section, shall be deemed to have an effective wastewater discharge permit until the city issues or denies the new wastewater discharge permit. A user, whose existing wastewater discharge permit has expired and who failed to submit its re-application in the time period specified in this section, will be deemed to be discharging without a wastewater discharge permit. (Ord. 05-254 § 2 (part))

13.26.060 Reporting requirements.

A. **Signatories and Certification.** All wastewater discharge permit user reports must be signed by an authorized representative of the user as defined in Section 13.26.010(E) of this chapter, 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.”

B. Categorical Baseline Monitoring Reports.

1. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the city a report which contains the information listed in subsection (B)(2) of this section. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the city a report which contains the information listed in subsection (B)(2) of this section. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

2. Users described in this section shall submit the following information:

a. Identifying Information. The name and address of the facility, including the name of the operator and owner.

b. Environmental Permits. A list of any environmental control permits held by or for the facility.

c. Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated process.

d. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

e. Measurement of Pollutants:

i. The categorical pretreatment standards applicable to each regulated process.

ii. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the city, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum,

and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations.

iii. Sampling and analysis must be performed in accordance with procedures as set out in Sections 13.26.070(C) and (D) of this chapter.

f. Certification. A statement, reviewed by the user's authorized representative 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 (O and M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

g. Compliance Schedule. If additional pretreatment and/or O and M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O and M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in subsection C of this section.

h. Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with subsection A of this section.

C. Compliance Schedule Progress Reports.

The following conditions shall apply to the categorical users meeting the compliance schedule required by subsection (B)(2)(g) of this section. It may also be used for noncategorical users required to meet a compliance schedule as directed by the city:

1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operations);

2. No increment referred to above shall exceed nine months;

3. The user shall submit a progress report to the city not later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established schedule; and

4. In no event shall more than nine months elapse between such progress reports to the city.

D. Reports on Compliance with Categorical Pretreatment Standard Deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the city a report containing the information described in subsections (B)(2)(d) through (B)(2)(f) of this section. For user's subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection A of this section.

E. Periodic Compliance Reports.

1. All users with categorical pretreatment standards shall, at a frequency determined by the city, but in no case less than twice per year, in June and December, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. If the categorical user is reporting at the minimum frequency, the city may, for good cause, change the months in which the periodic compliance report is due.

2. All noncategorical significant industrial users shall, at a frequency be determined by the city, but in no case less than twice per year, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by their wastewater discharge permit or this chapter, and the measured or estimated average and maximum daily flows for the reporting period.

3. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are nonrepresentative of its discharge.

4. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the city, using the procedures prescribed in Section 13.26.070(C) of this chapter, the results of this monitoring shall be included in the report.

5. All periodic compliance reports must be signed and certified in accordance with subsection A of this section.

F. Reports of Changed Conditions. Each user must notify the city of any planned significant changes to the user's operations or pretreatment systems which might

alter the nature, quality, or volume of its wastewater at least ninety (90) days before the change. For purposes of this requirement, significant changes include, but are not limited to, flow increase of twenty percent (20%) or greater, the discharge of any previously unreported pollutants, the increase of regulated pollutant concentrations, or the introduction of a new product using different raw materials.

G. Reports of Potential Problems.

1. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the city of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

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

3. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in subsection (G)(1) of this section. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

H. Report from Unpermitted Users. All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the city as the city may require.

I. Noncompliance Reporting. If sampling performed by a user indicates a violation of the permit or the chapter, the user must notify the city within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the city within thirty (30) days after becoming aware of the violation. The user is not required to resample if the city monitors at the user's facility at least once a month, or if the city samples between the user's initial sampling and when the user receives the results of this sampling.

J. Notification of the Discharge of Hazardous Waste.

1. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA regional waste management division director, and the state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR, Part 261.

Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place not later than one hundred eighty (180) days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under subsection F of this section. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of subsections C through E of this section.

2. Dischargers are exempt from the requirements of subsection (J)(1) of this section, during a calendar month in which they discharge not more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

3. In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the city, the EPA regional waste management waste division director, and the state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

4. In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

5. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable federal or state law.

K. Timing. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

L. Record Keeping. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user of the city, or where the user has been specifically notified of a longer retention period by the city. (Ord. 05-254 § 2 (part))

13.26.070 Compliance monitoring.

A. Right of Entry—Inspection and Sampling. The city shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this chapter and any wastewater discharge permit or order issued hereunder. Users shall allow the city ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

1. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the city will be permitted to enter without delay for the purposes of performing specific responsibilities.

2. The city shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

3. The city may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy.

4. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the city and shall not be replaced. The costs of clearing such access shall be borne by the user.

B. Search Warrants. If the city has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed

to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the city may seek issuance of a search warrant or inspection warrant from an appropriate court having jurisdiction.

C. Analytical Requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

D. Sample Collection.

1. Except as indicated in subsection (D)(2) of this section, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the city may authorize the use of time proportional sampling or a minimum of four grab samples 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.

2. Samples of oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques. (Ord. 05-254 § 2 (part))

13.26.080 Confidential information.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the city's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the city, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction. (Ord. 05-254 § 2 (part))

13.26.090 Publication of users in significant noncompliance.

A. Publication. The city may publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

1. Chronic violations of wastewater discharge limits, defined in this section as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or the average limit for the same pollutant parameter by any amount;
2. Technical review criteria (TRC) violations, defined in this section as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
3. Any other discharge violation that the city believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
4. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the city's exercise of its emergency authority to halt or prevent such a discharge;
5. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
6. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
7. Failure to accurately report noncompliance; or
8. Any other violation(s) which the city determines will adversely affect the operation or implementation of the local pretreatment program. (Ord. 05-254 § 2 (part))

13.26.100 Enforcement response plan.

The city shall develop and implement an enforcement response plan that will provide guidance to city staff for the enforcement of this chapter. This plan shall provide for the uniform and consistent enforcement of this chapter for all users of the system. (Ord. 05-254 § 2 (part))

13.26.110 Administrative enforcement remedies.

A. Notification of Violation. When the city finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the city may serve upon that user a written notice of violation. The city may require the user to provide a written explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions. The city may require the user to increase monitoring for the regulated parameter, or special monitoring and investigation to determine the cause of continued noncompliance. Performance of requirements ordered under a notice of violation in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

B. Consent Orders. The city may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to subsections D and E of this section and shall be judicially enforceable.

C. Show Cause Hearing. The city may order a user which has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the city and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least fifteen (15) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

D. Compliance Orders. When the city finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the city may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance order also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation.

Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

E. Cease and Desist Orders. When the city finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the city may issue an order to the user directing it to cease and desist all such violations and directing the user to: (a) immediately comply with all requirements; and/or (b) take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

F. Administrative Fines.

1. When the city finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the city may fine such user in an amount not to exceed one thousand dollars (\$1,000.00). Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.

2. Unpaid charges, fines, and penalties shall, after sixty (60) calendar days, be assessed an additional penalty of twenty-five percent (25%) of the unpaid balance, and interest shall accrue thereafter at a rate of one percent per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.

3. Users desiring to dispute such fines must file a written request for the city to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the city may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The city may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

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

G. Emergency Suspensions. The city may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The city may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

1. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the city may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The city may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the city that the period of endangerment has passed, unless the termination proceedings in subsection H of this section are initiated against the user.

2. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the city prior to the date of any show cause or termination hearing under subsection E or H of this section.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

H. Termination of Discharge. In addition to the provisions in Section 13.26.050(L) of this chapter, any user who violates the following conditions is subject to discharge termination:

1. Violation of wastewater discharge permit conditions;
2. Failure to accurately report the wastewater constituents and characteristics of its discharge;
3. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
4. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or
5. Violation of the pretreatment standards in Section 13.26.020 of this chapter.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under subsection C of this section why the proposed action should not be taken. Exercise of this option by the city shall not be a bar to, or a prerequisite for, taking any other action against the user. (Ord. 05-254 § 2 (part))

13.26.120 Judicial enforcement remedies.

A. Injunctive Relief. When the city finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the city may petition the

superior court through the city's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this chapter on activities of the user. The city may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

B. Civil Penalties.

1. A user who has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of one thousand dollars (\$1,000.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

2. The city may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.

3. In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

4. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

C. Criminal Prosecution.

1. A user who wilfully or negligently violates any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000.00) per violation, per day, or imprisonment for not more than six months, or both.

2. A user who wilfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least one thousand dollars (\$1,000.00) and be subject to imprisonment for not more than six months, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

3. A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation, per day, or imprisonment for not more than six months, or both.

4. In the event of a second conviction, a user shall be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation, per day, or imprisonment for not more than six months, or both.

D. Remedies Nonexclusive. The remedies provided for in this chapter are not exclusive. The city may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the city may take other action against any user when the circumstances warrant. Further, the city is empowered to take more than one enforcement action against any noncompliant user. (Ord. 05-254 § 2 (part))

13.26.130 Supplemental enforcement action.

A. Performance Bonds. The city may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this chapter, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the city, in a sum not to exceed a value determined by the city to be necessary to achieve consistent compliance.

B. Liability Insurance. The city may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this chapter, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

C. Water Supply Severance. Whenever a user has violated or continues to violate any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply. (Ord. 05-254 § 2 (part))

13.26.140 Affirmative defenses to discharge violations.

A. Upset.

Appendix B - Element 3: (Legal Authority)

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

2. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (A)(3)(c)(iii) of this section, are met.

3. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An upset occurred and the user can identify the cause(s) of the upset;

b. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

c. The user has submitted the following information to the city within twenty-four (24) hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five days:

i. A description of the indirect discharge and cause of noncompliance,

ii. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue, and

iii. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

4. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

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

6. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards 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 in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

B. Prohibited Discharge Standards. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 13.26.020(A) of this chapter, or the specific prohibition in Sections 13.26.020(A)(2)(c) through (A)(2)(q) of this chapter, if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

1. A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

2. No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

C. Bypass.

1. For the purposes of this section:

“Bypass” means the intentional diversion of wastestreams from any portion of a user's treatment facility.

“Severe property damage” means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

2. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (B)(4) and (B)(5) of this section.

3. Bypass is prohibited, and the city may take an enforcement action against a user for a bypass, unless:

a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

c. The user submitted notices as required under subsection (B)(5) of this section.

4. The city may approve an anticipated bypass, after considering its adverse effects, if the city determines that it will meet the three conditions listed in subsection (B)(3) of this section.

5. Notification.

a. If a user knows in advance of the need for a bypass, it shall submit prior notice to the city, at least ten (10) days before the date of the bypass, if possible.

b. A user shall submit oral notice to the city of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The city may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours. (Ord. 05-254 § 2 (part))

13.26.150 Pretreatment charges and fees.

The city may adopt reasonable fees for reimbursement of costs of setting up and operating the city's pretreatment program which may include, but not limited to:

A. Fees for wastewater discharge permit applications, including the cost of processing such applications;

B. Fees for monitoring, inspection, and surveillance procedures, including the cost of collection and analysis of a user's discharge, and reviewing monitoring reports submitted by users;

C. Fees for reviewing and responding to accidental or slug discharges procedures; and pretreatment system designs;

D. Fees for filing appeals; and

E. Other fees as the city may deem necessary to carry out the requirements contained in this section. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines, and penalties chargeable by the city. (Ord. 05-254 § 2 (part))

13.26.160 Fat, oil and grease control.

A. Findings. The city of Lathrop finds that, in order to provide for the public health and welfare, and to comply with the laws and regulations of the state of California and the United States Government, it is necessary to set uniform requirements for all users of the city's sanitary sewer system to include, but not limited to, the following:

1. To establish the appropriate authority for the city to condition or deny discharges to the city sewer system;
2. To prevent the introduction of excessive amounts of grease into the city sewer system;
3. To prevent the clogging or blocking of the city sewer lines due to grease buildup causing backup and flooding of streets, residences, and commercial buildings;
4. To implement a procedure to recover the costs incurred in cleaning and maintenance of sewer lines and the disposal of grease blockages;
5. To implement a procedure to recover costs for any liability incurred by the city for damage caused by grease blockages resulting in the flooding of streets, residences or commercial buildings;
6. To establish enforcement procedures for violations of any part or requirement of this chapter; and
7. To establish the authority for the city to carry out routine and nonroutine monitoring (sampling and inspections) of the grease traps and the food service facility.

B. Applicability. The terms and conditions of this chapter shall apply to all food service providers to include restaurants, cafeterias, food preparation facilities, convenience stores preparing fast foods for sale; grocery stores providing cooked foods for sale; and other food preparation facilities.

C. Definitions.

“City” means the city of Lathrop, California, employees of the city, or an authorized agent of the city.

“Discharger” means the food service facility that is discharging gray water to the city sewer system.

“Food service facility” or “facility” means any business which prepares and/or packages food or beverages for sale or consumption, on- or off-site, with the exception of private residences. Food service facilities shall include, but are not limited to, food courts, food manufacturers with an average daily discharge volume of twenty-five thousand (25,000) gallons per day or less, food packagers, restaurants, grocery stores,

bakeries, lounges, hospitals, hotels, nursing homes, churches, schools, and all other food service facilities not listed in this chapter.

“Garbage disposal” means a device which shreds or grinds up waste materials into smaller portions for discharge into the city’s sanitary sewer system.

“Gray water” means all of the liquid contained in a grease interceptor that lies below the floating grease layer and above the food solids layer.

“Grease” means a material either liquid or solid, composed primarily of fat, oil and grease from animal or vegetable sources. The terms “fats, oils, and grease (FOG),” “oil and grease” or “oil and grease substances” shall all be included within this definition.

“Grease interceptor” means a device located underground and outside of the food service facility designed to collect, contain or remove food wastes and grease from the wastestream while allowing the balance of the liquid wastes (gray water) to discharge to the wastewater collection system by gravity. Interceptors shall have at least one inspection hatch on the top surface to facilitate inspection, cleaning and maintenance.

“Grease trap” means a device located in a food service facility or under a sink designed to collect, contain, or remove food wastes and grease from the wastestream while allowing the balance of the liquid waste (gray water) to discharge to the wastewater collection system by gravity. Traps shall have a removable lid on the top surface to facilitate inspection, cleaning and maintenance.

“Grease trap service company” means a person, or company, who provides maintenance services for grease traps and interceptors. Maintenance services to include cleaning, minor repairs, grease and solids removal from the interceptor, and transport of the removed material to an appropriate recycling or disposal facility.

“Waste grease” means fats, oils, and grease that can be collected following use and prior to discharge to the sewer or interceptor. Waste grease is collected from pans, deep fat fryers and cooking grills.

D. Grease Interceptor/Trap Required.

1. Grease interceptors and/or traps shall be provided by the facility owner, when, in the opinion of the city, they are necessary to prevent grease in excessive amounts from entering the sanitary sewer system. All interceptors shall be of a type and capacity approved by the city building division and shall be located as to be easily and safely accessible for cleaning and inspection. All prospective grease trap users must provide manufacturer’s capacity data and an estimate of the product rate at the facility that is within the capacity of the grease trap to be approved by the building permit department.

2. Existing Facilities. For the purposes of sizing and installation of grease interceptors/traps, all food service facilities existing within the city's sewer system service area, whether within, or without, the city limits, prior to the effective date of the ordinance codified in this chapter shall be allowed to operate and maintain existing grease interceptors/traps provided their grease interceptors or grease traps are in efficient operating conditions.

On or after the effective date of the ordinance codified in this chapter, the city may require an existing food service facility to install, operate, and maintain a new grease interceptor or trap that complies with the requirements of this chapter or to modify, repair, or replace any noncompliant interceptor or trap within ninety (90) days of written notification by the city when any one or more of the following conditions exist:

- a. The facility is found to be contributing grease and oil in quantities sufficient to cause line stoppages or necessitates increased maintenance on the wastewater collection system.
- b. The facility does not have a grease interceptor or trap.
- c. The facility has an undersized, nonrepairable or defective grease interceptor or trap.
- d. Remodeling of the food preparation or kitchen waste plumbing system is performed which requires a building permit to be issued by the city.
- e. The existing facility is sold or undergoes a change of ownership.
- f. The existing facility does not have plumbing connections to a grease interceptor or trap in compliance with the requirements of this chapter, or current building codes.

3. New Facilities or New Interceptor Installations. Grease interceptors or traps shall be located in the food service facility's lateral sewer line between all fixtures which may introduce grease into the sewer system and the connection to the city's wastewater collections system. If dishwashers are connected to the grease interceptor, the interceptor must be properly designed to contain and cool the dishwasher discharge to prevent the hot water from causing carry through of the grease. Garbage disposals and restrooms should not be plumbed to the grease interceptor. Automatic hood washers, floor drains in food preparation and storage areas should be plumbed to the grease interceptor. Sanitary facilities (restrooms) shall not be plumbed to the grease interceptor under any circumstance.

4. The use of a grease trap, in-place of a grease interceptor will only be authorized for those facilities that do not operate a deep fat fryer, a cooking grill and conducts minimal dishwashing.

E. Maintenance of Grease Interceptor/Trap Required.

1. All grease interceptors and grease traps shall be continuously maintained in satisfactory and effective operational condition by the discharger at the discharger's expense. Typically maintenance consists of the removal of floatable solids and settleable solids collected in the grease interceptor/trap; and the cleaning of the walls and piping.

2. Routine Maintenance Schedules. The discharger is responsible for establishing a routine maintenance schedule that includes the routine removal of floatable and settleable solids and cleaning of the interceptors/traps. The maintenance frequency should be such that the interceptor/trap does not allow fats, grease, oils, and food solids from leaving the interceptor and entering the city sewer collection system. The amount of time between pumping and cleaning services is dependent on the volume of wastes discharged, the volume of the interceptor/trap, and the physical integrity of the interceptor/trap structures and piping. It is the discharger's responsibility that the interceptors/traps are routinely inspected and repaired as needed.

3. Record Keeping Requirements.

a. The discharger is responsible for maintaining appropriate maintenance records that documents the routine pumping, cleaning, and repairs made to interceptors and traps. Where the discharger hires a grease trap service company to clean the interceptor/trap and remove and dispose of the accumulated grease and solids, a copy of the pumping manifest or billing must be retained with the maintenance records. All maintenance records should include at a minimum the following information:

- i. Name of facility;
- ii. Date service performed;
- iii. Total volume of the interceptor/trap;
- iv. Total volume of material removed from the interceptor/trap;
- v. List of all deficiencies identified from an inspection of the empty interceptor/trap;
- vi. Name of the grease trap service company;
- vii. Address of the grease trap service company;
- viii. Name and address of final disposal site;
- ix. Signature of the grease trap service company employee performing the work; and

x. Signature of the discharger's employee observing and accepting the services.

4. Record Retention. All grease interceptor/trap maintenance records shall be retained for a period of not less than three years. These records shall be retained at the food service facility and shall be made available for inspection by the city.

F. Disposal of Wastes from Interceptors and Traps. Storage, handling, transportation and disposal of all wastes from interceptors/traps shall be performed in accordance with applicable federal, state, and local regulations that pertain to the type and/or class of waste. Materials removed from waste interceptors/traps must be disposed of at legally designated locations for those specific type wastes. Materials removed from waste interceptors/traps shall not be discharged to the city sanitary sewers or storm drains.

G. Collection, Storage, and Disposal of Waste Grease and Solids. Dischargers are encouraged to collect excess oil and grease from deep fat fryers, pots and pans prior to washing. This waste grease and oil should be collected and stored in appropriate containers that are appropriately labeled. The collected waste grease and oil should be collected by a waste grease service company for disposal. In no case shall the discharger dispose of deep fat fryer oils and other collected waste greases and oils by discharge to the grease interceptor/trap to the city sewer system.

H. Clean up of Spilled Grease and Oil. The discharger shall clean up all spilled grease and oil using appropriate tools, including a mop and bucket. Bucket contents may be discharged to the grease interceptor/trap, and solid greases and oils that can be manually picked up should be held in the waste grease collection containers for final disposal. In no instance shall spilled grease and oils be washed to the stormwater drains. In the event that the city is required to clean up a grease and oil spill generated by a discharger, the city is authorized to assess cost recovery fees to the discharger for all costs associated with the clean up.

I. Use of Chemicals and Other Additives. The use of chemicals, emulsifying agents, enzymes, microorganisms, and/or other additives that are added to the grease interceptors/traps to reduce or eliminate the pumping and cleaning of the interceptor/trap is prohibited. Dischargers currently using a chemical or other additive must halt such use immediately on the effective date of the ordinance codified in this chapter.

J. Right of Access. The city, employees of the city, or authorized agents of the city, have the authority to enter the property of the discharger to conduct inspections of the entire facility, including the interceptors, traps, cooking and storage areas, restrooms, offices, service areas, and other areas of the facility. The city is also authorized to collect samples of any wastestream, including the discharge from the facility and the interceptors and traps. The city may obtain search warrants for inspection and sampling purposes. Failure to grant access may result in the suspension of sewer and water services provided by the city.

K. Enforcement. Failure to comply with the provisions of this chapter is considered a misdemeanor and subject to enforcement actions under the city codes. In addition, to these misdemeanor enforcement actions the city is authorized to take the following actions to achieve compliance to the city chapter.

1. Mandatory Interceptor/Trap Service. The city may issue an order requiring the discharger to conduct interceptor/trap maintenance services within a mandatory time period. The cost of the services shall be the direct responsibility of the discharger.

2. Mandatory Interceptor/Trap Service Schedule. The city may impose a mandatory pumping and cleaning schedule to assure the proper maintenance of an interceptor not properly maintained by the discharger. The cost of the services shall be the direct responsibility of the discharger. Mandatory service schedules may cover a time period of up to three years.

3. Cost Recovery. The city may assess the discharger the amount of those expenditures made by the city to clean up or prevent sewer blockages and overflows caused by the discharge from a food service facility.

4. Administrative Fines. The city may assess fines to the discharger, not to exceed one thousand dollars (\$1,000.00) per day per violation, for violations of the city chapter.

a. Unpaid charges, fines, and penalties shall, after sixty (60) calendar days, be assessed an additional penalty of twenty-five percent (25%) of the unpaid balance, and interest shall accrue thereafter at a rate of one percent per month. A lien against the user's property will be sought for unpaid charges, fines and penalties.

b. Users desiring to dispute such fines must file a written request for the city to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the city may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The city may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

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

4. Emergency Suspensions. The city may immediately suspend a discharge and/or water services, after informal notice to the discharger, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. (Ord. 05-254 § 2 (part))