

ORDINANCE 1276

AN ORDINANCE OF THE CITY OF TRACY ADDING A NEW CHAPTER 5.26 (DISCHARGE OF FATS, OILS, AND GREASE) OF TITLE 5 (SANITATION AND HEALTH) OF THE TRACY MUNICIPAL CODE

WHEREAS, The City of Tracy is subject to state and federal regulations regarding the disposal of fats, oils, and grease that protect the health and safety of the public; and

WHEREAS, The City's current waste disposal regulations do not include regulations regarding fats, oils, and grease and thus must be updated to ensure consistency with state regulations and reflect changes in departmental responsibilities.

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

SECTION 1: A new Chapter 5.26, Discharges of Fats, Oils, and Grease, is hereby added to the Tracy Municipal Code and shall read as set forth in Attachment A and incorporated by reference herein.

SECTION 2: This Ordinance shall take effect thirty (30) days after its final passage and adoption.

SECTION 3: This Ordinance shall either (1) be published once in a newspaper of general circulation, within 15 days after its final adoption, or (2) be published in summary form and posted in the City Clerk's office at least five days before the Ordinance is adopted and within 15 days after adoption, with the names of the Council Members voting for and against the Ordinance. (Gov't. Code §36933.)

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The foregoing Ordinance 1276 was introduced at a regular meeting of the Tracy City Council on the 5th day of November 2019, and finally adopted on the 19th day of November, 2019, by the following vote:

AYES: COUNCIL MEMBERS: ARRIOLA, RANSOM, VARGAS, YOUNG, RICKMAN

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

ABSTAIN: COUNCIL MEMBERS: NONE

SIGNED BY: Robert Rickman, Mayor

ATTEST: Adrienne Richardson, City Clerk

Title 5- SANITATION AND HEALTH

Chapter 5.26 – DISCHARGES OF FATS, OILS, AND GREASE

Article 1. - General Provisions

5.26.010 - Purpose and policy.

(a) The purpose of this chapter is to facilitate the maximum beneficial use of the City's sewer system while preventing blockages of the sewer lines resulting from discharges of fats, oils and grease (FOG) into the public sewer, and to specify appropriate FOG discharge requirements for food service establishments as defined herein.

(b) This chapter shall be known as the FOG control program.

(c) The provisions set forth in this chapter are designed to ensure compliance with Federal, State and local laws and regulations, and to allow the City to meet applicable standards.

(d) This chapter also establishes quantity and quality standards on all discharges containing FOG, which may alone or collectively cause or contribute to FOG accumulation in the sewer facilities causing or potentially causing or contributing to the occurrence of sanitary sewer overflows.

5.26.020 – Applicability.

This chapter shall apply to discharges of wastewater containing FOG conveyed to the public sewer from any commercial or institutional food service establishment, including Significant Industrial users, unless their wastewater discharge permit states otherwise. All industrial users, as defined in 5.24.020, are subject to local, state, and/or Federal pretreatment regulations and shall be regulated under Chapter 5.24 as well.

5.26.030 - Definitions used in the article.

(a) Unless otherwise defined herein, terms related to water quality shall be as adopted in the latest edition of Standard Methods for Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association and the Water Environment Federation. The testing procedures for waste constituents and characteristics shall be as provided in 40 CFR 136 (Code of Federal Regulations).

(b) Other terms not herein defined are defined as being the same as set forth in 5.24.040 of the Tracy Municipal Code and the latest adopted applicable editions of the California Codes applicable to building construction adopted pursuant to the California Building Standards Law.

(c) Subject to the foregoing provisions, the following definitions shall apply in this chapter:

“Best management practices” or “BMPs” mean activities, prohibitions, maintenance procedures and other management practices to prevent or reduce the introduction of FOG into the public sewer.

“Blockage” means a partial or complete obstruction of wastewater flowing through a sewer pipeline.

“Brown grease” means floatable FOG, settled solids and associated wastewater retained by grease interceptors and grease traps.

“Change in law” means a change to any State or Federal law, permit or regulation; changes to the City Code; changes to any City NPDES permit or waste discharge requirement; or the subsequent existence of any court order, consent decree, injunction or other regulatory or legal imposition that affects the use and/or operation of the City’s sanitary sewer system and any other public or private sanitary sewer systems, lines or other public or private infrastructure that connects to the City’s sanitary sewer system.

“Change in operations” means any change in the ownership, food types, or operational procedures that have the potential to change the amount of FOG discharged by an FSE to the City’s wastewater collection and treatment system.

“City” means the City of Tracy, a municipal corporation.

“Collection system” means the public sewer system consisting of all pipes and conveyance system components conveying wastewater to the City’s wastewater treatment plant.

“Compliance schedule agreement” means an agreement between the city and a FSE when the FSE is in noncompliance with the requirements of the applicable FOG wastewater discharge permit.

“Composite sample” means a collection of individual samples obtained at intervals during a specified period of time. Flow-proportioned composite samples are obtained by collecting incremental samples with volumes proportional to flow. The resulting mixture (composite sample) forms a representative sample of the waste stream discharged during the sample period.

“Design hydraulic depth” means total operating depth of interceptor contents at which interceptor is designed to operate.

“Director” means the City of Tracy Director of Utilities or authorized representative.

“Enforcement officer” means any City employee or agent of the City with authority to enforce the provisions of this chapter and the authority to make any decision, on behalf of the Director, required or called for by this chapter.

“Fats, oils and grease” or “FOG” means any substance such as vegetable or animal product that is used in, or is a byproduct of, the cooking or food preparation process, and that becomes or may become viscous, or solidifies or may solidify, with a change in temperature or other conditions.

“FOG control program” means the FOG control program identified in and developed pursuant to this chapter.

"Food grinder" means any device installed in the plumbing or sewage system for the purpose of grinding food waste or food preparation by products for the purpose of disposing it in the sewer system.

"Food service establishment (FSE)" means food facilities defined in California Uniform Retail Food Facilities Law (CURFFL) Section 113789 of the Health and Safety Code, and any commercial or industrial entity within the boundaries of the sanitary sewer service area of the regional wastewater control facility, operating in a permanently constructed structure such as a room, building, or place, or portion thereof, maintained, used, or operated for the purpose of storing, preparing, serving, or manufacturing, packaging, or otherwise handling food for sale to other entities, or for consumption by the public, its members or employees, and which has any process or device that uses or produces FOG, or grease vapors, steam, fumes, smoke or odors that are required to be removed by mechanical ventilation as required by Health and Safety Code Section 114149. An establishment that limits its food preparation activities to those defined as "limited food preparation" in Health and Safety Code Section 113818 is not considered a FSE when engaged only in reheating, hot holding or assembly of ready to eat food products, provided that the establishment has no wastewater discharge containing a significant amount of FOG.

"Grab sample" means a sample taken from a waste stream on a one-time basis without regard to the flow in the waste stream and without consideration of time.

"Grease control device" means any grease interceptor, grease trap or other mechanism, device or process which attaches to, or is applied to, wastewater plumbing fixtures and lines, the purpose of which is to trap, collect and/or treat FOG prior to it being discharged into the public sewer.

"Grease interceptor" means a multicompartment device that primarily uses gravity to separate FOG from the wastewater as it moves from one compartment to the next. The design, construction, sizing and installation of grease interceptors shall conform to this chapter and the most current edition of the [California Plumbing Code](#). In the event of conflict, this chapter will control.

"Grease trap" means a grease control device that is used to serve individual plumbing fixtures. A grease trap is typically installed indoors, under or near a dishwashing sink.

"Hot spots" mean sewer lines that have experienced grease related blockages or SSOs and that must be cleaned or maintained frequently to avoid blockages of the public sewer.

"Inspector" means a person authorized by the Director to inspect any existing or proposed wastewater generation, conveyance, processing and/or disposal facilities.

"Institution" means a school, church, hospital, lodge, club, convalescent home or other similar entity.

"Interceptor" means a "grease interceptor."

"Manifest" means that receipt which is retained by the generator of wastes for disposing recyclable wastes or liquid wastes as required by the city.

"New construction" means any structure planned or under construction for which a connection permit has not been issued.

"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 representative, agents or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

"Public sewer" means a sewer owned and operated by the City. All public sewers must be constructed in accordance with Tracy's regulations and specifications for construction of sanitary sewers.

"Remodel" or "remodeling" means any physical and/or operational change to an FSE that involves any one or a combination of the following:

- (1) Under-slab plumbing in the food processing area;
- (2) A 30 percent or greater increase in the net public seating area;
- (3) A 30 percent or greater increase in the size of the kitchen area;
- (4) Any change in the size or type of food preparation equipment;
- (5) Any remodel, addition, alteration or repair valued greater than \$75,000.00.

"Sanitary sewer" means a sewer to which storm, surface and ground waters are not intentionally admitted.

"Sanitary waste" means domestic wastewater.

"Sanitary sewer overflow" or "SSO" means any overflow, spill, release, discharge or diversion of untreated or partially treated wastewater from a sanitary sewer system.

"Sewage facilities" means any and all facilities used for collecting, conveying, pumping, treating and disposing of wastewater.

"Sewer lateral" means the pipe between the City's sewer main line and the customer's service connection.

"Sludge" means any solid, semi-solid and/or liquid decant, sediment or supernatant from a manufacturing process, utility service, tank, vault or FOG control facility.

"Storm sewers or storm drains" means a sewer which carries storm and/or surface run-off water but excludes domestic sewage and polluted industrial wastes.

"Variance" means an approval granted to a permittee to vary from a specific requirement or requirements of this chapter when it can be demonstrated that the requirement(s) can be met with an equal or better process, technology or method.

"Waste" means sewage and any and all other waste substances, liquid, solid, gaseous or radioactive, associated with human habitation or of human or animal nature, including such wastes placed within containers of whatever nature prior to and for the purpose of disposal.

"Waste hauler" means any person carrying on or engaging in vehicular transport of waste as part of, or incidental to, any business for the purpose of discharging said waste into the City's system.

"Wastewater" means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together which may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

"Wastewater constituents and characteristics" means the individual chemical, physical, bacteriological and radiological parameters, including volume and flow rate and such other parameters that serve to define, classify or measure the quality and quantity of wastewater.

"Yellow grease" means spent cooking oil and other fats and oils collected from commercial or industrial cooking operations. Yellow grease is typically collected in bins outside of the FSE for recycling.

Article 2. - Regulations and Requirements

5.26.040 - Prohibitions.

The following prohibitions shall apply to all FSEs:

(a) Installation of food grinders in the plumbing system of new construction of FSEs shall be prohibited. Furthermore, all food grinders shall be removed from all existing FSEs within one hundred eighty (180) working days of the effective date of this chapter, except when expressly allowed, in writing, by the Director.

(b) Introduction of any additives into a FSE's wastewater system for the purpose of emulsifying FOG or biologically/chemically treating FOG for grease remediation or as a supplement to interceptor maintenance, unless a specific written authorization or FOG wastewater disposal permit from the Director is obtained.

(c) Disposal of waste cooking oil into the public sewer or storm drain is prohibited.

(d) Discharge of water or wastewater with temperatures in excess of 140° Fahrenheit into any grease interceptor or grease control device is prohibited.

(e) Discharge of wastes from toilets, urinals, wash basins, and other fixtures containing fecal materials to sewer lines intended for grease interceptor service, or vice versa, is prohibited.

(f) Discharge of any waste including FOG and solid materials removed from a grease control device to the public sewer is prohibited. Grease removed from grease interceptors shall be transported to an approved disposal or recycling facility.

(g) Operation of grease interceptors with FOG and solids accumulation exceeding 25 percent of the design hydraulic depth of the grease interceptor is prohibited. The grease and solids layers combined shall not exceed 25 percent of the total interceptor liquid depth.

(h) Increasing the use of water or in any other manner attempting to dilute a discharge as a way of achieving compliance with these regulations is prohibited.

5.26.050 – FOG discharge limitation.

No FSE shall discharge or cause to be discharged into the sewer system FOG that exceeds a concentration level adopted by the council or that may accumulate and/or cause or contribute to blockages in the sewer system or at the sewer lateral which connects the FSE to the sewer system.

5.26.060 – Requirements for best management practices.

(a) All FSEs shall implement best management practices in accordance with the requirements and guidelines established by the city under its FOG control program in an effort to minimize the discharge of FOG to the sewer system.

(b) All FSEs shall be required, at a minimum, to comply with the following best management practices, when applicable:

(1) Installation of drain screens. Drain screens shall be installed on all drainage pipes, including floor drains, in food preparation, dishwashing, and mop sink areas.

(2) Segregation and collection of yellow grease. All yellow grease shall be collected and stored properly in recycling receptacles such as barrels or drums. Such recycling receptacles shall be maintained properly to ensure that they do no leak. Licensed waste haulers or an approved recycling facility must be used to dispose of waste cooking oil and all manifests and paperwork shall be available for inspection by the city.

(3) Disposal of food waste. All food waste shall be disposed of directly into the trash or garbage, and not into sinks. Double-bagging food wastes that have the potential to leak in trash bins is highly recommended.

(4) Maintenance of kitchen exhaust filters. Kitchen exhaust filters shall be cleaned as frequently as necessary to be maintained in good operating condition. The wastewater generated from cleaning kitchen exhaust filters, floor mats and kitchen equipment shall be disposed of in compliance with these regulations.

(5) Employee training. At the time of hiring and at least annually employees of the FSE shall be trained by ownership/management or permittee on the following subjects:

(i) How to “dry wipe/scrape” pots, pans, dishware, utensils, equipment and work areas into containers, such as trash cans or bins, before washing to remove FOG;

- (ii) How to properly dispose of garbage, food waste and solids in enclosed plastic bags prior to disposal in trash bins or containers to prevent leaking and odors;
- (iii) The location and use of absorption products to clean under fryer baskets and other locations where FOG may be spilled or dripped;
- (iv) How to properly dispose of grease or oils from cooking equipment into a grease receptacle such as a barrel or drum without spilling/splashing.

Training shall be documented and employee signatures retained indicating each employee's attendance and understanding of the practices reviewed. Training records shall be available for review at any reasonable time by the Director or designee. Training records shall be retained for a minimum of three (3) years.

5.26.070 – FOG pretreatment requirements.

Every FSE is required at the time of construction, remodel, and/or change in operations to install, operate and maintain a grease interceptor necessary to maintain compliance with the objectives of this chapter, subject to the waiver provisions of Section 5.26.080. The grease interceptor installed shall be adequate to separate and remove FOG contained in wastewater from the FSE prior to discharge to the public sewer as determined by the most current edition of the [California Plumbing Code](#). Fixtures, equipment and drain lines located in the food preparation and clean-up areas of an FSE shall be connected to the grease interceptor. Dishwashers shall not be connected to the grease interceptor. Compliance shall be established as follows:

(a) New Construction of Food Service Establishments. New construction of FSEs shall include installation of grease interceptor(s) prior to commencing discharges of wastewater to the sewer system.

(b) Existing Food Service Establishments:

(1) Existing FSEs, which have caused or contributed to grease-related blockage in the sewer system, or which have sewer laterals connected to hot spots, or which have been determined to contribute significant FOG to the sewer system by the Director based on inspection or sampling, shall be deemed to have reasonable potential to adversely impact the sewer system, and shall install grease interceptors within one hundred eighty (180) working days upon notification by the Director.

(2) Existing FSEs or FSEs that change ownership, that undergo remodeling or a change in operations as defined in Section 5.26.030 of this chapter, shall be required to install a grease interceptor.

5.26.080 – Grease interceptor requirements.

(a) All FSEs shall provide wastewater acceptable to the city under the requirements and standards established herein before discharging to any city sewer. Any FSE required to provide

FOG pretreatment shall install, operate, and maintain an approved type and adequately sized grease interceptor necessary to maintain compliance with the objectives of this chapter.

(b) Grease interceptor design, construction, sizing and installation shall conform to the most current edition of the [California Plumbing Code](#). Grease interceptors shall have a minimum of two (2) compartments.

(c) The grease interceptor shall be installed at a location where it shall be at all times easily accessible for inspection, cleaning, and removal of accumulated grease.

(d) An access manhole, with a minimum diameter of 24 inches, shall be provided over each grease interceptor chamber and each sanitary tee within the interceptor. The access manholes shall extend at least to finished grade and be designed and maintained to prevent the entry of groundwater or stormwater runoff. The manholes shall also have readily removable covers to facilitate inspection, grease removal, and wastewater sampling activities.

(e) All grease interceptors are required to have grease retention fittings as designed for proper function. Any interceptor that does not have grease retention fittings shall be repaired and/or retrofitted with appropriate grease retention fittings.

5.26.090 – Grease interceptor maintenance requirements.

(a) Grease interceptors shall be maintained in efficient operating condition by periodic inspection and removal of the full content of the interceptor which includes wastewater, accumulated FOG, floating materials, sludge and solids.

(b) All existing and newly installed grease interceptors shall be maintained in a manner consistent with a maintenance frequency approved by the Director pursuant to this section.

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

(d) FSEs with grease interceptors may be required to submit data and information necessary to establish the maintenance frequency of the grease interceptors.

(e) The maintenance frequency for all FSEs with a grease interceptor shall be determined in one of the following methods:

(1) Grease interceptors shall be fully pumped out and cleaned at a frequency such that the combined FOG and solids accumulation does not exceed twenty-five (25) percent of the total design hydraulic depth of the grease interceptor. This is to ensure that the minimum hydraulic retention time and required available hydraulic volume is maintained to effectively intercept and retain FOG discharged to the sewer system.

(2) All FSEs with a grease interceptor shall maintain their grease interceptor not less than every six months.

(3) Grease interceptors shall be fully pumped out and cleaned quarterly when the frequency described in subsection (e)(1) has not been established. The maintenance frequency shall be adjusted when sufficient data have been obtained to establish an average frequency based on the requirements described in subsection (e)(1) and guidelines adopted pursuant to the FOG control program. The city may change the maintenance frequency at any time to reflect changes in actual operating conditions in accordance with the FOG control program. Based on the actual generation of FOG from the food service establishment, the maintenance frequency may increase or decrease.

(4) The owner/operator of a FSE may submit a request to the Director requesting a change in the maintenance frequency at any time. The FSE has the burden of responsibility to demonstrate that the requested change in frequency reflects actual operating conditions based on the average FOG accumulation over time and meets the requirements described in 1., and that it is in full compliance with the conditions of its permit and this chapter. Upon determination by the Director that the requested revision is justified, the permit shall be revised accordingly to reflect the change in maintenance frequency.

(5) If the grease interceptor, at any time, contains FOG and solids accumulation that does not meet the requirements described in subsection (e)(1), the FSE shall be required to have the grease interceptor serviced immediately such that all fats, oils, grease, sludge, and other materials are completely removed from the grease interceptor. If deemed necessary, the Director may also increase the maintenance frequency of the grease interceptor from the current frequency. Notice of any change to the maintenance frequency shall be given by written notice by the Director.

(f) Wastewater, accumulated FOG, floating materials, sludge/solids, and other materials removed from the grease interceptor shall be disposed of off-site properly by wastehaulers in accordance with federal, state and/or local laws.

5.26.100 – Waiver of grease interceptor requirements.

(a) Subject to the limitations contained in subsections b, c, and d of this section, the Director may grant a conditional waiver of the requirement to install a grease interceptor.

(b) An existing FSE may obtain a variance from the grease interceptor requirement to allow alternate pretreatment technology that is, at least, equally effective in controlling the FOG discharge in lieu of a grease interceptor, if the FSE demonstrates that it is impossible or impracticable to install, operate or maintain a grease interceptor. The Director's determination to grant a variance will be based upon, but not limited to, evaluation of the following conditions:

(1) There is no adequate space for installation and/or maintenance of a grease interceptor.

(2) There is no adequate slope for gravity flow between kitchen plumbing fixtures and the grease interceptor and/or between the grease interceptor and the private collection lines or the city sewer.

(3)The FSE can justify that the alternative pretreatment technology is equivalent or better than a grease interceptor in controlling its FOG discharge. In addition, the FSE must be able to demonstrate, after installation of the proposed alternative pretreatment, its effectiveness to control FOG discharge through downstream visual monitoring of the sewer system, for at least three months (with a minimum of two visual inspections; one at the beginning and one at the end of the three-month period), at its own expense. A variance may be granted if the results, as determined by the Director, show no visible accumulation of FOG in its lateral and/or tributary downstream sewer lines.

(c)The Director may grant for new construction, including remodels, a conditional waiver to any FSE and/or property owner that the Director determines to have negligible FOG discharge and insignificant impact to the public sewer. Notwithstanding the granting of a conditional waiver however, the FSE or property owner may nonetheless be required to provide space and plumbing segregation for future installation of a grease interceptor. In making the determination as to whether to grant the conditional waiver, the Director shall make all of the following findings:

(1)The quantity of FOG discharge as measured or indicated by the size of the FSE based on kitchen ventilation requirements, water usage, menu, seating capacity, number of meals served, amount of on-site consumption of prepared food, number of plumbing fixtures and other conditions does not indicate that the FSE will materially contribute to existing or potential FOG discharges.

(2)The FSE does not appear to be a significant contributor of FOG into the sewer system, which is based on an inspection of the property or sampling of FOG discharged from the FSE to the sewer system.

(3)The FSE has adopted and implemented adequate BMPs and has no recent history of non-compliance with the City's FOG related regulations and requirements.

(4)The size, grade and condition of the sewer lines serving the FSE do not indicate that the FSE has discharged an excessive amount of FOG in the sewer, and the history of maintenance, blockages and SSOs in the public sewer lines receiving flow from the FSE do not deviate substantially from those experienced in other adjacent sewer lines.

(5)There is no reason to believe that the operations of the FSE will change in the foreseeable future in a manner that may significantly increase the amount of FOG the FSE will discharge.

(6)There is no other condition reasonably related to the generation of FOG discharges into the sewer by the FSE that will, in the sound judgment of the Director, warrant the denial of the conditional waiver in the interest of protecting the public health, safety and welfare.

(d)Where the installation of a grease interceptor in an existing structure is not feasible, an FSE and/or property owner may be granted a conditional waiver of the grease interceptor requirement upon the payment of a grease disposal mitigation fee as described in Section 5.26.190. Additional requirements may also be imposed to mitigate the discharge of FOG into

the public sewer. The Director's determination to grant the waiver upon the payment of a grease disposal mitigation fee will be based upon one or more of the following findings:

- (1) There is inadequate space for installation and/or maintenance of a grease interceptor;
- (2) There is inadequate slope for gravity flow between kitchen plumbing fixtures and the proposed grease interceptor and/or between the proposed grease interceptor and the upper lateral, the lower lateral, or the public sewer;
- (3) Any other condition reasonably related to the installation, operation, maintenance and/or inspection of a grease interceptor, which makes installation and/or maintenance of a grease interceptor infeasible.

(e) Application for Conditional Waiver of Requirement for Grease Interceptor. An FSE or property owner may submit to the Director an application for conditional waiver from the grease interceptor requirement. The party applying for the conditional waiver bears the burden of demonstrating that the installation of a grease interceptor is not feasible or otherwise required. A waiver may be issued upon determination by the Director that reasons are sufficient to justify such a waiver, as provided in subsections b, c, and d of this section.

(f) Terms and Conditions of Waiver. The conditional waiver shall contain the terms and conditions that serve as the basis for its issuance. A waiver may be revoked by the Director at any time upon his or her determination that any of the terms or conditions for its issuance have not been satisfied or if the conditions upon which the waiver was based have changed so that the justification for the waiver no longer exists. The waiver shall be valid so long as the FSE remains in compliance with the terms and conditions, until the expiration date specified in the waiver, or until the conditional waiver is revoked.

(g) Revocation of Conditional Waiver of the Requirement to Install a Grease Interceptor. The Director may revoke any conditional waiver of the requirement to install a grease interceptor granted pursuant to this section, subject to the procedures and limitations provided in this subsection.

(1) Should the Director determine that, due to changed circumstances or failure to comply with the terms or conditions imposed upon the issuance of the conditional waiver, a conditional waiver that was previously issued and remains valid should be revoked, the Director shall provide notice by regular mail to the owner of the affected FSE and the property owner no less than 30 days prior to the proposed effective date of the revocation. The notice shall provide an explanation of the facts and circumstances that the Director has determined warrant revocation of the conditional waiver and an opportunity to respond in writing to the Director with information and evidence to justify the continuation of the conditional waiver in accordance with its terms and conditions.

(2) Prior to making the final determination to revoke a conditional waiver the Director shall review and consider the written information provided pursuant to subsection (g)(1) of this section.

(3) The determination of the Director to revoke a conditional waiver granted pursuant to this section shall be set forth in a writing provided to the owner of the affected FSE and the property owner by regular mail, and shall be based on the Director's reasonable determination that one or more of the following circumstances exists or has occurred:

(i) The owner of the affected FSE and/or the property owner has failed to abide by any term or condition imposed upon the conditional waiver;

(ii) One or more of the findings made by the Director pursuant to subsection b, c, or d of this section, due to changes in the operation of the FSE, changes in the condition, use or available capacity of the sewers serving the FSE or other changed circumstances, are no longer true; or

(iii) A change in law bearing upon the use or operation of the City's sanitary sewer system requires the revocation of the conditional waiver.

5.26.110 – Commercial and institutional properties.

Any owner, or official designee, of a commercial and/or institutional property where one (1) or more FSEs are located shall be responsible for the installation and maintenance of the grease interceptor(s) serving the FSEs that are located on that property, as required by this chapter.

5.26.120 – Facilities and drawing submittal requirements.

Upon request by the Director:

(a) Any FSE and/or property owner may be required to submit to the City two (2) copies of facility site plans, floor plans, mechanical and plumbing plans, detail drawings showing all sewer locations and connections, and schematic drawings of grease interceptors, FOG control devices or other FOG control equipment and appurtenances by size, location and elevation. The submittal shall be in a form and content acceptable to the Director for review of the existing or proposed grease control device, monitoring facilities, metering facilities, and operating procedures. The review of the plans and procedures shall in no way relieve the FSE of the responsibility of modifying the facilities or procedures in the future as necessary to produce an acceptable discharge, and to meet the requirements of this chapter or the requirements of any other regulatory agency.

(b) The Director may require the drawings be prepared by a California registered civil, chemical, mechanical, or electrical engineer.

5.26.130 – Facilities monitoring and right of entry requirements.

(a) The Director may require the FSE or property owner to construct and maintain in proper operating condition at their sole expense, flow monitoring, water quality monitoring and/or sampling facilities.

(b)The location of the monitoring facilities shall be representative of actual discharge conditions.

(c)FSEs and/or owners of premises where wastewater is generated and discharged to the sewer system shall allow the Director and designees immediate and safe access to all parts of the wastewater generating and disposal facilities for the purposes of inspection and sampling during all times the FSE is open, operating, or any other reasonable time.

(d)The FSE or property owner shall, upon request, submit to the Director waste analysis plans, contingency plans, and other necessary information to verify compliance with these regulations.

(e)Testing procedures for waste constituents and characteristics shall be as provided in 40 Code of Federal Regulations 136.

(f) In the event of an emergency involving an actual or imminent SSO, the Director and designees may access adjoining businesses or properties that share a public sewer with an FSE in order to prevent or remediate the actual or imminent SSO.

5.26.140 – Monitoring and reporting conditions.

(a)The Director may require periodic reporting of the status of implementation of kitchen BMPs, in accordance with the FOG control program.

(b)If, following an inspection of the FSE, it is apparent that the FSE has not used or maintained its grease interceptor or grease removal device, has failed to properly implement kitchen BMPs, or has failed to abide by any condition imposed upon a conditional waiver granted pursuant to Section [5.26.080](#) of this chapter, the Director may require visual closed circuit television inspection at the sole expense of the FSE or property owner to observe the actual conditions of the sewer lateral serving the property and sewer lines downstream.

(c)The Director may require reports for self-monitoring of wastewater constituents and FOG characteristics from the FSE or property owner needed for determining compliance with any conditions or requirements as specified in this chapter. Monitoring reports of the analyses of wastewater constituents and FOG characteristics shall be in a manner and form approved by the Director and shall be submitted upon request of the Director. Failure by the FSE or property owner to perform any required monitoring, or to submit monitoring reports required by the Director constitutes a violation of this chapter and shall be cause for the City to initiate all necessary tasks and analyses to determine the wastewater constituents and FOG characteristics for compliance with any conditions and requirements specified in this chapter. The FSE and property owner shall be responsible for any and all costs and expenses of the City in undertaking such monitoring analyses and preparation of reports and such costs and expenses are deemed a debt of the owner of the pertinent FSE and the property owner to the City, enforceable and collectable as provided by law.

(d) Other reports may be required by the Director, such as compliance schedule progress reports, FOG control monitoring reports, grease interceptor and grease removal device operation and maintenance reports, and any other reports deemed reasonably appropriate by the Director to ensure compliance with this chapter

5.26.150 – Inspections and sampling conditions.

(a) The Director may inspect and sample or order the inspection and sampling of the wastewater discharges of any FSE to ascertain whether the intent of these regulations is being met and the FSE is complying with all requirements. The FSE shall allow access to the FSE premises, during normal business hours, for purposes of inspecting the FSE's grease control devices or interceptor, reviewing the manifests, receipts and invoices relating to the cleaning, maintenance and inspection of the grease control devices or interceptor.

(b) The Director shall have the right to place or order the placement on the FSE's property, or other locations as determined by the Director, such devices as are necessary to conduct sampling or metering operations. Where an FSE or property owner has security measures in force, the FSE or property owner shall make necessary arrangements so that the Director and/or an inspector shall be permitted to enter without delay for the purpose of performing their specific responsibilities.

(c) In order for the Director to determine the wastewater characteristics of the FSE for purposes of determining compliance with this chapter, the FSE shall make available for inspection and copying by the Director, an inspector, an enforcement officer and/or service personnel, all notices, monitoring reports, waste manifests, and records including, but not limited to, those related to wastewater generation and wastewater disposal. All such records shall be kept by the FSE a minimum of three (3) years.

5.26.160 – Recordkeeping requirements.

The FSE and property owner shall be required to maintain on the FSE premises copies of all manifests, receipts and invoices of all cleaning, maintenance, grease removal of/from the grease control device, disposal carrier and disposal site location for no less than three (3) years. The FSE and property owner shall, upon request, make the manifests, receipts and invoices available to the Director, any inspector and/or enforcement officer, and the public. These records shall be kept in the binder provided by the city and include but are not limited to:

(a) A record of grease interceptor, grease trap or grease control device cleaning and maintenance practices.

(b) A record of best management practices being implemented including employee training.

(c) Copies of records and manifests of wastehauling interceptor contents.

(d) Records of sampling data and sludge height monitoring for FOG and solids accumulation in the grease interceptors.

(e) Records of any spills and/or cleaning by the FSE or FSE's contractor of private lateral or private sewer system.

(f) Any other information deemed appropriate by the Director to ensure compliance with this chapter.

5.26.170 – Sewer system overflows, public nuisance, abatement orders and cleanup costs.

(a) FSEs found to have contributed to a sewer blockage, SSOs or any sewer system interferences resulting from the discharge of wastewater or waste containing FOG, shall be ordered to install and maintain a grease interceptor, and may be subject to a plan to abate the nuisance and prevent any future health hazards created by sewer line failures and blockages, SSOs or any other sewer system interferences.

(b) SSOs may cause threat and injury to public health, safety, and welfare of life and property and are hereby declared public nuisances. Furthermore, sewer lateral failures and SSOs caused by FSEs alone or collectively, are the responsibility of the private property owner or FSE, and individual(s) as a responsible officer or owner of the FSE.

(c) If the city must act immediately to contain and/or clean up an SSO caused by blockage of a private sewer lateral or private sewer system of a FSE, or because of the failure of the property owner or FSE to abate the condition causing immediate threat of injury to the health, safety, welfare, or property of the public, the city costs for such abatement may be entirely borne by the property owner or operator of the FSE, and individual(s) as responsible officer(s) or owner(s) of the FSE(s) and may constitute a debt to the city and become due and payable upon the city's request for reimbursement of such costs.

Article 3. – Fees and charges

5.26.180 – Purpose of charges and fees.

It is the purpose of Section [5.26.190](#) to provide for the recovery of costs from FSEs and owners of property containing FSEs for the implementation of the program established in this chapter

5.26.190 – Fees and charges.

In order to recover from the users of the City's wastewater disposal system the cost of implementing the program established by this chapter, the City Council may adopt by resolution fees and charges which may include:

(a) Fees for reimbursement of the costs to set-up, implement and operate the City's FOG program;

(b) Other fees as the City may deem necessary to carry out the requirements contained herein;

(c) Costs incurred by the City for, or as a result of, any and all required on-site sampling and analysis are deemed a debt of the owner of the pertinent FSE and the property owner to the City, enforceable and collectable as provided by law;

(d) Costs incurred by the City for closed circuit television inspection to observe the actual conditions of an FSE's sewer lateral and sewer lines downstream are deemed a debt of the owner of the pertinent FSE and the property owner to the City, enforceable and collectable as provided by law;

(e) Noncompliance Charge. Any FSE and/or property owner determined to be in noncompliance with the terms and conditions specified in any provision of this chapter may be required to pay a noncompliance charge. The purpose of the noncompliance charge is to reimburse the City for costs of additional inspection and follow-up, sampling, monitoring, laboratory analysis, treatment, disposal, and administrative processing incurred as a result of the noncompliance, and shall be in addition to and not in lieu of any penalties as may be assessed pursuant to Section 5.26.260. Noncompliance charges shall be in the amount reasonably determined by the Director;

(f) Grease Disposal Mitigation Fee:

(1) Any FSE and/or property owner subject to the provisions of subsection d of Section 5.26.080 of this chapter shall be required to pay an annual grease disposal mitigation fee to reimburse the City for the costs of increased maintenance of the public sewer as a result of the FSE's inability to adequately remove FOG from its wastewater discharge. This section shall not be interpreted to allow a new FSE or an existing FSE undergoing remodeling and/or a change in operations to operate without an approved grease interceptor unless the Director has determined that it is impossible or impracticable to install and/or operate a grease interceptor for the subject facility pursuant to the provisions of Section 5.26.080 of this chapter;

(2) The grease disposal mitigation fee for each FSE shall be based on the estimated annual increased cost of maintaining the public sewer for inspection and removal of FOG and other viscous or solidifying agents attributable to the FSE resulting from the lack of a grease interceptor.

Article 4. – Administration

5.26.200 – Falsifying information or tampering with process.

It is unlawful to make any false statement, representation; record; report; plan or other document that is filed with the City and/or the Director, or to tamper with or knowingly render inoperable any grease control device, monitoring device or method or access point required under this chapter.

5.26.210 – Notification of spill.

(a) In the event an FSE or property owner is unable to comply with any provision of this chapter due to a breakdown of equipment, accidents, or human error or the FSE or property owner has reasonable opportunity to know that their discharge will exceed the discharge provisions of this chapter, the FSE and property owner shall immediately notify the Utilities Department by telephone. If material is discharged by an FSE to the public sewer that the owner of the FSE and/or the property owner believes or reasonably should believe has the potential to cause or result in an imminent sewer blockage or SSO, the FSE and property owner shall immediately notify the Utilities Department.

(b) Confirmation of this notification shall be made in writing to the Director postmarked no later than five (5) calendar days from the date of the incident. The written notification shall state the date of the incident, to whom the FSE and/or property owner provided notification, the reasons for the discharge or spill, what steps were taken to immediately correct the problem, and what steps are being taken to prevent the problem from recurring.

(c) Such notification shall not relieve the FSE or the property owner of any expense, loss, damage or other liability which may be incurred as a result of damage or loss to the City or any other damage or loss to persons or property; nor shall such notification relieve the FSE or the property owner of any fees, charges or other liability which may be imposed by these regulations or other applicable law.

5.26.220 – Notification of planned changes.

The FSE and the property owner shall notify the Utilities Department at least 60 days prior to any facility expansion or remodeling, process modifications that may result in new or substantially increased FOG discharges, or a change in the nature of the discharge. The FSE and the property owner shall notify the Utilities Department in writing of the proposed expansion or remodeling and shall submit any information requested by the Utilities Department for evaluation of the effect of such expansion or remodeling on the FSE's FOG discharge to the public sewer.

Article 5. – Enforcement

5.26.230 – Harmful discharge—Immediate suspension or termination of wastewater service.

(a) The City may immediately, without prior written notification, suspend sewerage service of an FSE and property owner when such suspension is necessary, in order to stop an actual or imminently threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, or cause the City to violate any State or federal law or regulation.

(b) Any person notified of a suspension or termination of wastewater service shall immediately stop or eliminate all discharges to the public sewer. In the event of a failure of the person to comply voluntarily with the suspension or termination order, the Director shall take such steps as he or she deems necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the environment, collection system and/or the regional wastewater control facility. The Director may reinstate the wastewater service only upon proof that the circumstance that caused the suspension or termination of wastewater service has been adequately addressed and the circumstance no longer presents a danger to the environment or to the City's wastewater system.

5.26.240 – Failure to comply with FOG regulations—Suspension and/or termination of wastewater service.

(a) In accordance with the procedures and limitations provided in subsection (b) of Section 5.26.230, the Director may suspend and/or terminate wastewater service to an FSE and property owner when the Director determines that the FSE has failed to comply with the requirements of this chapter, with respect to any of the following particulars.

- (1) Failed to comply with the terms and conditions of a compliance schedule order;
- (2) Knowingly provided a false statement, representation, record, report, or other document to the City and/or the Director;
- (3) Refused to provide records, reports, plans, or other documents required by the City and/or the Director to determine compliance with this chapter;
- (4) Falsified, tampered with or knowingly rendered inaccurate any monitoring device or sample collection method;
- (5) Refused reasonable access to the FSE for the purpose of inspection and monitoring;
- (6) Failed to make timely payment of all amounts owed to the City imposed pursuant to this chapter;
- (7) Discharged FOG that caused an obstruction or sewer blockage in the public sewer or an SSO;
- (8) Violated grease interceptor maintenance requirements or any provision of this chapter pertaining to maintenance and operation of any grease interceptor or grease control device;
- (9) Failed to report significant changes in operations, or wastewater constituents and characteristics.

(b) For the purpose of making the determination of noncompliance pursuant to subsection a of this section, the Director may rely upon any evidence or information available and may gather other necessary information as needed through imposition of reasonable sampling and inspection requirements conducted at a time, location, manner, and frequency determined at the reasonable

discretion of the Director. The inspections may include, but are not limited to, inspection of the grease control device, grease interceptor and associated manifests and documentation, or analysis of a grab or composite sample of the wastewater discharged from the FSE.

5.26.250 – Compliance time schedule in lieu of suspension or termination of wastewater service.

(a) Upon determination that a FSE is in noncompliance with the terms and conditions specified in any provision of this chapter, or needs to construct and/or acquire and install a grease control device or grease interceptor, the Director may require the FSE to enter into a compliance time schedule on terms and conditions specified by the Director.

(b) The compliance time schedule may contain terms and conditions including, but not limited to, requirements for installation of a grease control device, submittal of drawings or reports, audit of waste hauling records, BMPs and waste minimization practices, payment of fees, or other provisions to ensure compliance with this chapter.

(c) If compliance is not achieved in accordance with the terms and conditions of a compliance time schedule during its term, the Director may issue an order suspending or terminating wastewater service pursuant to Section 5.26.240 of this chapter.

5.26.260 – Violations and penalties.

Any FSE or property owner in violation of this chapter, or the rules and regulations issued under this chapter, or who discharges or causes the discharge of prohibited wastewaters which cause damages to the City's facility, detrimental effects on treatment processes, or other damages resulting in costs to the City shall be liable to the City for all damages occasioned thereby. Any violation of this chapter is considered a public nuisance.

(a) Injunction. Whenever a violation of the provisions of this chapter or a Federal or State pretreatment standard or requirement occurs, the City may, in addition to any other action provided herein, petition the Superior Court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate in restraining the continuance of such violation.

(b) Civil Penalties. Any person who violates any provision of this chapter or who violates any cease and desist order, prohibition or effluent limitation, may be liable civilly for a minimum penalty of One Thousand and no/100ths (\$1,000.00) dollars per day for each day such violation occurs. The City Attorney, at their discretion, shall petition the Superior Court to impose, assess and recover such penalties.

(c) Criminal Penalties. Violations of this chapter may be charged as infractions or misdemeanors, at the discretion of the City Attorney, in accordance with section 1.04.030.

(d) To remedy violations of this chapter, the Director is authorized to issue notices of violation, administrative citations and impose administrative civil penalties pursuant to chapter 1.04 of this Code.

(e) The remedies and provisions of this section are cumulative, and are in addition to any other remedy or provision of law.

5.26.270 - Appeals.

The City costs incurred by reason of appeals by a FSE or property owner, which result in additional sampling and study, will be charged directly to the FSE or property owner.

Any FSE or property owner affected by any decision, action or determination made by the Director interpreting or implementing the provisions of this chapter or in any permit issued herein, may file with the Director written request for reconsideration within ten (10) days setting forth in detail the facts supporting the user's request for reconsideration. Such facts must include a statement listing newly discovered relevant facts that were not known or available to the user at the date of the hearing. The Director shall render a decision on the request for reconsideration to the user, permit applicant or permit holder in writing within fifteen (15) days of receipt of request. If the ruling on the request for reconsideration made by the Director is unacceptable, or if there is no request for reconsideration and the original ruling is unacceptable, the person requesting reconsideration may file an appeal to the City Manager under section 1.12.010.

Article 6. - Severability

5.26.280 - Severability.

If any provision of this chapter or the application to any person or circumstances is held invalid, the remainder of the chapter or the application of such provisions to other persons or other circumstances shall not be affected.