

Ordinance No. O-2004-07

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PLACENTIA ADDING CHAPTER 16.24 TO THE PLACENTIA MUNICIPAL CODE ESTABLISHING FATS, OILS AND GREASE CONTROL REGULATIONS APPLICABLE TO FOOD SERVICE ESTABLISHMENTS.

City Attorney's Summary

This Ordinance adopts regulations applicable to food service establishments such as restaurants and cafeterias to limit fats, oils, and grease from entering the private and public sewer system, and to prevent sewer system overflows pursuant to the requirements of Order R-8-2002-0014 adopted in April 2002 by the Regional Water Quality Control Board for the Santa Ana Region.

WHEREAS, pursuant to Const. art. XI, § 3, Const. art. XI, § 5, Const. art. XI, § 7, Govt. Code §§ 38900 - 38902, and Health & Safety Code §§ 5470 - 5474.10, the City of Placentia ("City") has the authority to adopt ordinances relating to the provision of sewer services and facilities, and regulations of those services and facilities; and

WHEREAS, the Regional Water Quality Control Board ("RWQCB") for the Santa Ana Region adopted Order R8-2002-0014, which prescribes general waste discharge requirements prohibiting sanitary sewer overflows ("SSOs") by sewer collection agencies; and

WHEREAS, in Order R8-2002-0014, the RWQCB found that one of the leading causes of SSOs within the Santa Ana Region, which encompasses the City's service area is "grease blockages;" and

WHEREAS, SSOs often caused by discharge of wastewater containing high levels of fat, oils and grease ("FOG"), suspended solids, pathogenic organisms, and other pollutants, may cause temporary exceedances of applicable water quality objectives, pose a threat to the public health, adversely affect aquatic life, and impair the public recreational use and aesthetic enjoyment of surface waters within the City's service area; and

WHEREAS, the 2000-2001 Orange County Grand Jury ("Grand Jury") conducted a survey among 35 wastewater collection and treatment agencies in Orange County and concluded that one of the leading causes of SSOs and sewage spills is sewer lines clogged from the accumulation of FOG discharged from Food Service Establishments; and

WHEREAS, the Grand Jury further concluded that more effective methods of minimizing grease discharges into the sewer system must be developed and implemented to reduce the discharge of FOG to the sewer system in order to prevent sewer blockages and SSOs; and

WHEREAS, Order No. R8-2002-0014 requires the City to monitor and control SSOs and to develop a FOG Control Program by December 30, 2004; and

WHEREAS, in light of the overwhelming evidence that FOG is a primary cause of SSOs, the City desires to implement a FOG Control Program to prevent SSOs; and

WHEREAS, Section 1014 of the 2001 California Plumbing Code, applicable to all occupancies in the State pursuant to the California Building Standards Law, requires the installation of grease traps or interceptors when in the opinion of the Building Official waste pretreatment is required; and

WHEREAS, the foregoing findings indicate that a FOG Control Program is required for Food Service Establishments within the City's jurisdiction to comply with waste discharge regulations and prevent the harmful effects of SSOs; and

WHEREAS, the regulations adopted herein will require existing Food Service Establishments to install grease control devices or interceptors no later than five years from the effective date of these regulations, and the City Council finds that five years is a reasonable amortization period for existing Food Service Establishments that are operating without a grease control device or grease interceptor; and

WHEREAS, the regulations adopted herein are intended to apply to all Food Service Establishments located within the City of Placentia which establishments discharge directly or indirectly into the City's sewer system; and

WHEREAS, the City Council finds that specific enforcement provisions must be adopted to govern discharges of wastewater to the City's system by Food Service Establishments.

NOW, THEREFORE, the City Council does hereby ordain as follows:

SECTION 1. ADOPTION OF REGULATIONS. Chapter 16.24, the "Regulations of the City of Placentia Applicable to Food Service Establishments for Controlling Fats, Oils and Grease" attached herewith as Exhibit "1" is hereby added to Title 16 of the Placentia Municipal Code.

SECTION 2. FILING WITH CALIFORNIA BUILDING STANDARDS COMMISSION. A copy of these regulations shall be filed with the California Building Standards Commission and the California Department of Housing and Community Development by the City Clerk as required by State law (Health & Safety Code Section 17958.7).

SECTION 3. EFFECTIVE DATE. These regulations shall take effect 30 days from their adoption and a summary shall be published in a newspaper of general circulation as provided by law.

PASSED AND ADOPTED this ____ day of _____, 2004.

Judy A. Dickinson, Mayor

ATTEST:

Patrick J. Melia, City Clerk

STATE OF CALIFORNIA)
) §§
COUNTY OF ORANGE)

I, Patrick J. Melia, City Clerk of the City of Placentia do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council held on the _____ day of _____, 2004, and was finally adopted at a regular meeting held thereof on the ____ day of _____, 2004, by the following vote:

AYES: COUNCILMEMBERS: _____
NOES: COUNCILMEMBERS: _____
ABSENT: COUNCILMEMBERS: _____

Patrick J. Melia, City Clerk

Approved as to form:

Thomas F. Nixon, City Attorney

PLACENTIA MUNICIPAL CODE

CHAPTER 16.24

REGULATIONS OF THE CITY OF PLACENTIA

APPLICABLE TO FOOD SERVICE ESTABLISHMENTS

FOR CONTROLLING FATS, OILS AND GREASE

TABLE OF CONTENTS

SECTION 16.24.010..... GENERAL PROVISIONS
1

(a) PURPOSE AND POLICY..... 1

(b) DEFINITIONS..... 1

SECTION 16.24.020..... GENERAL LIMITATIONS, PROHIBITIONS, AND
REQUIREMENTS ON FATS, OILS, AND GREASE ("FOG")
DISCHARGES..... 11

(a) FOG DISCHARGE LIMITATION..... 11

(b) PROHIBITIONS..... 11

(c) FOG WASTEWATER DISCHARGE PERMIT REQUIRED..... 12

(d) FOG PRETREATMENT REQUIRED..... 13

(f) VARIANCE AND WAIVER OF GREASE INTERCEPTOR REQUIREMENT
..... 14

(g) COMMERCIAL PROPERTIES..... 17

(h) GREASE DISPOSAL MITIGATION FEE..... 17

(i) SEWER SYSTEM OVERFLOWS, PUBLIC NUISANCE, ABATEMENT
ORDERS AND CLEANUP COSTS..... 18

SECTION 16.24.030..... FOG WASTEWATER DISCHARGE PERMITS FOR FOOD
SERVICE ESTABLISHMENTS..... 19

(a) FOG WASTEWATER DISCHARGE PERMIT REQUIRED..... 19

(b) FOG WASTEWATER DISCHARGE PERMIT APPLICATION..... 20

(c) FOG WASTEWATER DISCHARGE PERMIT CONDITIONS..... 21

(d) FOG WASTEWATER DISCHARGE PERMIT APPLICATION FEE.... 22

(e) FOG WASTEWATER DISCHARGE PERMIT MODIFICATION OF TERMS
AND CONDITIONS..... 22

(f) FOG WASTEWATER DISCHARGE PERMIT DURATION AND RENEWAL 23

(g) EXEMPTION FROM FOG WASTEWATER DISCHARGE PERMIT..... 23

(h) NON-TRANSFERABILITY OF PERMITS..... 23

(i) FOG WASTEWATER DISCHARGE PERMIT CHARGE FOR USE..... 24

SECTION 16.24.040..... FACILITIES REQUIREMENTS
24

(a)	DRAWING SUBMITTAL REQUIREMENTS	24
(b)	GREASE INTERCEPTOR REQUIREMENTS	25
(c)	GREASE TRAP REQUIREMENTS	25
(d)	MONITORING FACILITIES REQUIREMENTS	26
(e)	REQUIREMENTS FOR BEST MANAGEMENT PRACTICES	26
(f)	GREASE INTERCEPTOR MAINTENANCE REQUIREMENTS	28
SECTION 16.24.050..... MONITORING, REPORTING, NOTIFICATION, AND INSPECTION REQUIREMENTS.....		30
(a)	MONITORING AND REPORTING CONDITIONS	30
(b)	INSPECTION AND SAMPLING CONDITIONS	32
(c)	RIGHT OF ENTRY	33
(d)	NOTIFICATION OF SPILL	33
(e)	NOTIFICATION OF PLANNED CHANGES	34
SECTION 16.24.060..... ENFORCEMENT 34		
(a)	GENERAL PROCEDURE	34
(b)	DETERMINATION OF NONCOMPLIANCE WITH FOG WASTEWATER DISCHARGE PERMIT CONDITIONS	35
(c)	COMPLIANCE SCHEDULE AGREEMENT (CSA)	35
(d)	PERMIT SUSPENSION	36
(e)	PERMIT REVOCATION	38
(f)	DAMAGE TO FACILITIES OR INTERRUPTION OF NORMAL OPERATIONS	40
(g)	PUBLIC NUISANCE	41
(h)	TERMINATION OF SERVICE	41
(i)	EMERGENCY SUSPENSION ORDER	42
(j)	CIVIL PENALTIES	42
(k)	CRIMINAL PENALTIES	46
(l)	APPEALS TO THE CITY COUNCIL	47
(m)	PAYMENT OF CHARGES	48
(n)	JUDICIAL REVIEW	48
SECTION 16.24.070..... SEVERABILITY 50		
SECTION 16.24.080..... CALIFORNIA BUILDING STANDARDS LAW FINDINGS 50		

PLACENTIA MUNICIPAL CODE

CHAPTER 16.24

REGULATIONS OF THE CITY OF PLACENTIA

APPLICABLE TO FOOD SERVICE ESTABLISHMENTS

FOR CONTROLLING FATS, OILS AND GREASE

SECTION 16.24.010 GENERAL PROVISIONS

(a) PURPOSE AND POLICY

- (1) The purpose of this Chapter is to facilitate the maximum beneficial public use of the City's sewer services and facilities while preventing blockages of the sewer facilities resulting from discharges of Fats, Oils and Grease ("FOG") to sewer facilities, and to specify appropriate FOG discharge requirements for Food Service Establishments.
- (2) This Chapter shall be interpreted in accordance with the definitions set forth in Section 16.24.010(b). The provisions of this Chapter shall apply to the discharge of all wastewater or waste containing FOG which is or may be carried to the sewer facilities of the City.
- (3) To comply with Federal, State, and local policies and to allow the City to meet applicable standards, provisions are made in this Chapter for the regulation of discharges of wastewater or waste containing FOG to sewer facilities.
- (4) This Chapter establishes standards on all wastewater and/or waste discharges from Food Service Establishments 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 sewer system overflows ("SSOs").

(b) DEFINITIONS

- (1) 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).

- (2) Other terms not herein specifically defined shall have the same definition as set forth in the latest adopted editions of the California Codes of Regulations applicable to building construction adopted pursuant to the California Building Standards Law.
- (3) Subject to the foregoing provisions, the following definitions shall apply in these regulations:

Best Management Practices Schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the introduction of FOG to the sewer facilities as more specifically provided for in 16.24.040(e) of these regulations.

Change in Operations Any change in the ownership, food types, operational procedures or business practices that have the potential to increase the amount of FOG generated and/or discharged by Food Service Establishments in an amount that alone or in conjunction with other FOG discharges causes or creates a potential for SSOs to occur.

City The City of Placentia.

City Administrator The City Administrator of the City of Placentia or his/her designee.

City Council The City Council of the City of Placentia.

Composite Sample A collection of individual samples obtained at selected intervals based on an increment of either flow or time. The resulting mixture (composite sample) forms a representative sample of the waste stream discharged during the sample period.

Discharger Any person who discharges or causes a discharge of wastewater or waste directly or indirectly to the sewer facilities. Discharger shall mean the same as User.

Effluent Any liquid outflow from a Food Service Establishment that is discharged to the sewer facilities.

Fats, Oils, and Grease ("FOG") Any substance such as a vegetable or animal product that is used in, or is a by-product of, the cooking or food preparation process, and that turns or may turn viscous or solidifies or may solidify with a change in temperature or due to other conditions. Discharges of FOG to the sewer system from a Food Service Establishment constitute the discharge of industrial waste.

FOG Control Program The FOG control program required by and developed pursuant to RWQCB Order No. R8-2002-0014, Section (c)(12)(viii).

FOG Control Program Manager The individual designated by the City to administer the FOG Control Program. Except as otherwise set forth in this Chapter, the FOG Control Program Manager is responsible for all determinations of compliance with the FOG control program.

FOG Wastewater Discharge Permit A permit issued by the City subject to the requirements and conditions established by the City authorizing the permittee to discharge wastewater into the City's sewer facilities or into sewer facilities which ultimately discharge into a City sewer facility.

**Food Service
Establishment**

Facilities defined in California Uniform Retail Food Service Establishments Law (CURFFL), California Health and Safety Code Section 113785, and any commercial entity discharging directly or indirectly to the City's sewer system, 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, manufacturing, packaging, or otherwise handling food for sale to other entities, or for consumption by the public, its members or employees, and which has any process or device that uses or produces FOG, or grease vapors, steam, fumes, smoke or odors that are required to be removed by a Type I or Type II hood.

Food Grinder

Any device installed for the purpose of grinding food waste or food preparation by-products for disposal to the sewer system.

**Grease Control
Device**

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 or treat FOG prior to discharge into the sewer system. "Grease control device" may also include any other proven method to reduce FOG subject to the approval of the City.

Grease Disposal Mitigation Fee	A fee charged to an owner and/or operator of a Food Service Establishment when there are physical limitations to the property that make the installation of a grease interceptor or grease control device for the Food Service Establishment, impossible or impracticable. The Grease Disposal Mitigation Fee is intended to cover the costs of increased maintenance of the sewer system for inspection and removal of FOG and other viscous or solidifying agents that a properly employed grease control device would otherwise prevent from entering the sewer system.
Grease Interceptor	A multi-compartment device that is constructed in different sizes and is generally required to be located, according to the California Plumbing Code, underground between a Food Service Establishment and the connection to the sewer system. These devices primarily use gravity to separate FOG from the wastewater as it moves from one compartment to the next. These devices must be cleaned, maintained, and have the FOG removed and disposed of in a proper manner on regular intervals to be effective.
Grease Trap	A grease control device that is used to serve individual fixtures and have limited effect and should only be used in those cases where the use of a grease interceptor or other grease control device is determined to be impossible or impracticable.
Grab Sample	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.
Hot Spots	Areas in sewer lines that have experienced sanitary sewer overflows or that must be cleaned or maintained frequently to avoid blockages of sewer system.

Inflow	Storm water or urban runoff which enters the sewer system. Inflow may, in certain circumstances, cause a rapid increase in wastewater flows.
Infiltration	Water entering the sewer system from the ground through such means as defective pipes, pipe joints, connections, or manhole walls.
Inspector	A person authorized by the City to inspect any existing or proposed wastewater or waste generation, conveyance, processing and/or disposal facilities.
Interceptor	A grease interceptor.
Interference	Any discharge which, alone or in conjunction with discharges from other sources, inhibits or disrupts the City's sewer system, collection processes or operations; or is a cause of violation of Chapter 16.04 of the Placentia Municipal Code.
Limited Food Preparation Establishment	An establishment engaged only in reheating, hot holding or assembly of ready-to-eat (precooked and prepackaged) food products from which establishment there is only a de minimus discharge of FOG to the sewer system. A limited food service preparation establishment is not considered a Food Service Establishment under this Ordinance. A limited food preparation establishment does not include any preparation that changes the form, flavor or consistency of food. Any person who contends that he/she/it meets the definition of a limited food preparation establishment shall have the burden to establish that he/she/it meets the criteria set forth in this definition.

Manifest That receipt to be retained by the generator of wastes for disposing of recyclable wastes or other liquid or solid wastes as required by the City or a regulatory agency.

New Construction Any structure planned or under construction for which a sewer connection permit has not been issued.

Permittee A person who has received from the City a permit to discharge wastewater into the City's sewer facilities subject to the requirements and conditions established by the City.

Person Any individual, partnership, firm, association, corporation or public agency, including the State of California and the United States of America.

Public Agency The State of California and/or any city, county, special City, other local governmental authority or public body of or within this State.

Public Sewer A sewer owned and operated by the City or by another local public agency which sewer is tributary to the City's sewer facilities.

Regulatory Agencies

Regulatory Agencies shall mean those agencies having regulatory jurisdiction over environmental quality matters, including, but not limited to:

a) United States Environmental Protection Agency, Region IX, San Francisco and Washington, DC (EPA).

b) California State Water Resources Control Board (SWRCB).

c) California Regional Water Quality Control Board, Santa Ana Region (RWQCB).

d) South Coast Air Quality Management City (SCAQMD).

e) California Department of Health Services (DOHS).

Remodeling

A physical or operational change (a) causing an increase in the amount of FOG discharged to the sewer system by a Food Service Establishment which amount, alone or in conjunction with other FOG discharges, causes or creates a potential for an SSO to occur; or (b) exceeding a cost of \$50,000.00 to a Food Service Establishment, requiring a building permit, and involving any one or combination of the following: (1) under slab plumbing in the food processing area, (2) a 30% increase in the net public seating area, (3) a 30% increase in the size of the kitchen area, or (4) any change in the size or type of food preparation equipment.

Sample Point

A location approved by the City, from which industrial wastewater can be collected that is representative in content and consistency of the entire flow of industrial wastewater being discharged to the sewer system.

Sampling Facilities	Structure(s) provided at the user's expense for the City or user to measure and record wastewater constituent mass concentrations, collect a representative sample, or provide access to plug or terminate the discharge to the sewer system.
Sewage	Wastewater.
Sewer Facilities or System	Any and all facilities used for collection, conveyance, pumping, treatment, reclamation, reuse and/or disposal of wastewater and/or sludge.
Sewer Lateral	A building sewer as defined in the latest edition of the California Plumbing Code. It is the wastewater connection between a building's wastewater facilities and a public sewer system.
Sludge	Any solid, semi-solid or liquid decant, subnate or supernate from a manufacturing process, utility service, or pretreatment facility.
Twenty-five percent (25%) Rule	Requirement for grease interceptors to be maintained such that the combined FOG and solids accumulation does not exceed 25% of the 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 prior to entry into the public sewer system.
User	Any person who discharges or causes a discharge of wastewater or waste directly or indirectly to sewer facilities. User shall mean the same as Discharger.

Waste 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 Minimization Practices Plans or programs intended to reduce or eliminate discharges to the sewer system or to conserve water, including, but not limited to, product substitutions, housekeeping practices, inventory control, employee education, and other steps as necessary to minimize waste or wastewater produced.

Wastehauler Any person carrying on or engaging in vehicular transport of waste as part of, or incidental to, any business for that purpose.

Wastewater The liquid and water-carried wastes of the community and all constituents thereof, whether treated or untreated, discharged, directly or indirectly, into the sewer system.

Wastewater Constituents and Characteristics The individual chemical, physical and bacteriological parameters, including volume and flow rate, and such other parameters that serve to define, classify or measure the quality and quantity of wastewater.

(4) Words used in these regulations in the singular may include the plural and the plural the singular. Use of masculine shall mean feminine and use of feminine shall mean masculine. Shall is mandatory; may is permissive or discretionary.

**SECTION 16.24.020 GENERAL LIMITATIONS, PROHIBITIONS, AND
REQUIREMENTS ON FATS, OILS, AND GREASE
("FOG") DISCHARGES**

(a) FOG DISCHARGE LIMITATION

No Food Service Establishment shall discharge or cause to be discharged into the sewer system FOG that may accumulate and/or cause or contribute to blockages in the sewer system, including the sewer lateral which connects the Food Service Establishment to the public sewer system.

(b) PROHIBITIONS

The following prohibitions shall apply to all Food Service Establishments:

- (1) Installation of food grinders in new constructions of Food Service Establishments shall be prohibited. Furthermore, all food grinders shall be removed from all existing Food Service Establishments within 180 days of the effective date of these regulations, except when expressly allowed by the FOG Control Program Manager pursuant to the applicable provisions of the latest edition of the California Plumbing Code.
- (2) Introduction of any additives into a Food Service Establishment's wastewater system for the purpose of emulsifying FOG is prohibited, unless a specific written authorization from the FOG Control Program Manager is obtained based upon evidence showing that such additives will not cause or contribute to interference and/or a sewer system overflow.
- (3) Discharge of waste cooking oil, directly or indirectly, into the drainage pipes and/or the sewer system is prohibited. All waste cooking oils shall be collected and stored properly in receptacles such as barrels or drums for recycling or other acceptable methods of disposal.
- (4) Discharge of wastewater from dishwashers to any grease trap or grease interceptor is prohibited.
- (5) Discharge of wastewater with temperatures in excess of 140°F to any grease control device, including grease traps and grease interceptors, is prohibited.

- (6) The use of biological additives to treat or reduce FOG or as a supplement to interceptor maintenance, without prior authorization from the FOG Control Program Manager, is prohibited. Such authorization shall be based upon evidence showing that such biological additives will not cause or contribute to interference and/or a sewer system overflow.
- (7) Discharge of wastes from toilets, urinals, washbasins, and any other fixtures containing fecal or other bodily waste materials to piping which flows to a grease control device is prohibited. Except as otherwise authorized pursuant to this Chapter, the discharge of FOG wastes shall only occur to piping which flows to a grease interceptor prior to discharge to the sewer system.
- (8) No waste removed from a grease control device may be discharged to the sewer system. FOG and solid materials removed from grease control devices shall be hauled periodically as part of the operation and maintenance requirements for grease interceptors or other grease control devices.
- (9) No person shall allow the accumulation of FOG and/or solids in a grease interceptor which accumulation exceeds 25% of the total operating hydraulic depth of the grease interceptor.

(c) FOG WASTEWATER DISCHARGE PERMIT REQUIRED

No person shall discharge, or cause to be discharged, any wastewater from a Food Service Establishment directly or indirectly into the sewer system without first obtaining a FOG wastewater discharge permit pursuant to this Chapter. Within 60 days of the effective date of this Chapter, all Food Service Establishments in the City shall file an application for a FOG wastewater discharge permit with the City on a form approved by the City Administrator for such purpose. Except for limited food preparation establishments, which are not subject to the permit requirements of this Chapter, any person who wishes to open or operate a new Food Service Establishment following the effective date of this Chapter shall apply for and obtain a FOG wastewater discharge permit prior to commencement of operations.

(d) FOG PRETREATMENT REQUIRED

Except as otherwise set forth in this Chapter, each Food Service Establishment shall install, operate and maintain an adequately sized grease interceptor necessary to maintain compliance with this Chapter. The grease interceptor shall be adequate to separate and remove FOG contained in wastewater discharges from the Food Service Establishment prior to discharge to the sewer system. Fixtures, equipment, and drain lines located in the food preparation and clean up areas of Food Service Establishments that are sources of FOG discharges shall be connected to the grease interceptor.

(1) New Construction of Food Service Establishments

All Food Service Establishments which are newly constructed shall install, operate and maintain grease interceptors prior to and following commencement of wastewater discharges to the sewer system.

(2) Existing Food Service Establishments

(A) For existing Food Service Establishments, the requirement to install, properly operate and maintain a grease interceptor may be conditionally stayed, that is, delayed in its implementation, by the FOG Control Program Manager for a maximum period of five years from the effective date of this Chapter (5-year Amortization Period). Terms and conditions for application of a stay for a Food Service Establishment shall be set forth in the permit. The City Council finds that five years is a reasonable amortization period for existing Food Service Establishments that are operating without a grease interceptor.

(B) Existing Food Service Establishments, which have caused or contributed to a 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 FOG Control Program Manager based on inspection or sampling, shall be deemed to have reasonable potential to adversely impact the sewer system, and shall install and commence proper operation of grease interceptors within 180 days upon notification by the City.

- (C) Existing Food Service Establishments undergoing remodeling or a change in operations as defined in Section 16.24.010(b) shall be required to install a grease interceptor, except as otherwise authorized by this Chapter.

(e) VARIANCE AND WAIVER OF GREASE INTERCEPTOR REQUIREMENT

(1) Variance from Grease Interceptor Requirements

A variance from the grease interceptor requirements to allow alternative pretreatment technology that is, at least, equally effective in controlling the FOG discharge in lieu of a grease interceptor may be granted. Additionally, a variance from the grease interceptor requirement may be granted to Food Service Establishments demonstrating that it is impossible or impracticable to install, operate or maintain a grease interceptor, and/or where the implementation of Best Management Practices is as effective as a grease interceptor in controlling FOG discharges into the sewer system. The FOG Control Program Manager's determination to grant a variance shall be based upon an evaluation of the following factors:

- (A) The availability of adequate space for installation and/or maintenance of a grease interceptor.
- (B) The availability of an adequate slope for gravity flow between kitchen plumbing fixtures and the grease interceptor and/or between the grease interceptor and the private or public sewer collection lines.
- (C) Whether the Food Service Establishment can establish that the alternative pretreatment technology and/or implementation of Best Management Practices is equivalent to or better than a grease interceptor in controlling its FOG discharge. In addition, the Food Service Establishment must be able to demonstrate, after installation of the proposed alternative pretreatment, its effectiveness to control FOG discharges through downstream visual monitoring of the sewer system by the City or by a City approved contractor, for at least three months, at the Food Service Establishment's own expense. A variance

may be granted if the monitoring demonstrates no visible accumulation of FOG from discharges in the Food Service Establishment's lateral and in downstream sewer lines.

(D) Other factors reasonably related to physical constraints in the construction and operation of a grease interceptor or to the minimization of FOG discharges to the sewer system.

(2) Conditional Waiver from Installation of Grease Interceptor

A conditional waiver from installation of a grease interceptor may be granted for Food Service Establishments that have been determined to have a de minimus FOG discharge to and insignificant impact on the sewer system. The FOG Control Program Manager's determination to grant a conditional waiver shall be based upon, but not limited to, evaluation of the following conditions:

(A) Quantity and quality of FOG discharge as measured or as indicated by the size of Food Service Establishment based on seating capacity, number of meals served, menu, water usage, amount of on-site consumption of prepared food and other conditions that may reasonably be shown to contribute to FOG discharges.

(B) Adequacy of implementation of Best Management Practices and compliance history.

(C) Sewer size, grade, condition based on visual inspection, FOG deposition in the sewer system by the Food Service Establishment, and history of maintenance and sewage spills in the receiving sewer system.

(D) Changes in operations that significantly affect FOG discharge.

(E) Any other condition determined by the FOG Control Program Manager to be reasonably related to the generation of FOG or control of FOG discharges.

(3) Waiver from Grease Interceptor Installation with a Grease Disposal Mitigation Fee

For Food Service Establishments where the installation of a grease interceptor is impossible or impracticable and no equivalent alternative pretreatment is feasible, a waiver from the grease interceptor requirement may be granted by the FOG Control Program Manager upon the imposition of a Grease Disposal Mitigation Fee as described in 16.24.020(g). Additional requirements may be imposed to mitigate the discharge of FOG into the sewer system. The FOG Control Program Manager's determination to grant a waiver upon imposition of a Grease Disposal Mitigation Fee shall be based upon the following factors:

- (A) The availability of adequate space for installation and/or maintenance of a grease interceptor.
 - (B) The availability of an adequate slope for gravity flow between kitchen plumbing fixtures and the grease interceptor and/or between the grease interceptor and the private or public collection lines.
 - (C) Whether a variance from grease interceptor installation requirements to allow alternative pretreatment technology can be granted.
 - (D) Other factors reasonably related to physical constraints in the construction and operation of a grease interceptor or to the minimization of FOG discharges to the sewer system.
- (4) Application for Variance or Waiver of Requirement for Grease Interceptor

A Food Service Establishment may submit an application for variance or waiver from the grease interceptor requirement to the FOG Control Program Manager. The Food Service Establishment shall bear the burden of demonstrating, to the FOG Control Program Manager's reasonable satisfaction, that the variance or waiver is justified by factors listed in Section 16.24.020(e). Upon determination by the FOG Control Program Manager that the Food Service Establishment has met its burden, a FOG Wastewater Discharge Permit may be issued or revised to include the variance or waiver.

(5) Terms and Conditions

The issuance of a variance or waiver may be subject to such terms and conditions that the FOG Control Program Manager determines are reasonably appropriate to minimize or eliminate the discharge of FOG to the sewer system. A variance or waiver may be revoked at any time when any of the terms and conditions for its issuance are not satisfied or if the conditions upon which the variance or waiver was based change so that the justification for the variance or waiver no longer exists. Except as otherwise set forth in this Chapter, a variance or waiver shall be valid so long as the Food Service Establishment remains in compliance with the terms and conditions of the variance or waiver, or until the expiration date specified in the FOG Wastewater Discharge Permit.

(f) COMMERCIAL PROPERTIES

Property owners of commercial properties shall be responsible for the installation and maintenance of the grease interceptor serving multiple Food Service Establishments.

(g) GREASE DISPOSAL MITIGATION FEE

A Food Service Establishment that does not qualify for a variance or waiver, and for which establishment the installation of a grease control device or interceptor is impossible or impracticable may be required to pay an annual Grease Disposal Mitigation Fee to cover the costs of increased maintenance of the sewer system as a result of the Food Service Establishment's inability to adequately remove FOG from its wastewater discharge. This Section shall not be interpreted to allow the new construction of a Food Service Establishment or the remodeling or change in operation of an existing Food Service Establishment without installation of a grease control device or grease interceptor unless the City has determined that it is impossible or impracticable to install or operate a grease control device or grease control interceptor for the subject facility under the provisions of 16.24.020(e) of this Chapter.

- (1) The Grease Disposal Mitigation Fee shall be established by ordinance or resolution of the City Council, and shall be based on the estimated annual cost of

maintaining the sewer system for inspection and removal of FOG and other viscous or solidifying agents attributable to the Food Service Establishment resulting from the lack of a grease interceptor or grease control device.

- (2) The Grease Disposal Mitigation Fee may be waived or reduced if the Food Service Establishment demonstrates to the reasonable satisfaction of the FOG Control Program Manager that, through implementation of best management practices and waste minimization practices, it has reduced to a de minimus level the discharge of FOG into the sewer system.
- (3) The Grease Disposal Mitigation Fee shall not be waived or reduced when the Food Service Establishment has not complied with the minimum requirements of this Chapter and/or its discharge into the sewer system in the preceding 12 months has caused or contributed to a sewer blockage or SSO in the sewer system.

(h) SEWER SYSTEM OVERFLOWS, PUBLIC NUISANCE, ABATEMENT ORDERS AND CLEANUP COSTS

Notwithstanding the five-year amortization period established in 16.24.020(d), Food Service Establishments which have contributed to a sewer blockage, SSO or any sewer system interference resulting from the discharge of wastewater or waste containing FOG, shall install, operate and maintain a grease interceptor, and may be required to abate such nuisance and prevent any future health hazards created by such sewer line blockage, SSO or any other sewer system interference. SSOs may threaten or cause injury to public health, safety, and welfare and are hereby declared to be a public nuisance. Furthermore, sewer lateral failures and SSOs caused by Food Service Establishments, alone or collectively, are the responsibility of the private property owner and Food Service Establishment, and their respective responsible officers and/or owners. If, either at the request of a Food Service Establishment or to abate an immediate threat of injury to the public health, safety, welfare, or property, the City acts to contain and/or clean up an SSO or the blockage of a sewer lateral or the sewer system caused by a Food Service Establishment, the City's costs for such abatement shall be entirely borne by the property owner, operator of the Food Service Establishment, and their respective responsible officers and/or owners, and each of them, and shall constitute a debt to the City and

become due and payable upon the City's request for reimbursement of such costs.

SECTION 16.24.030 FOG WASTEWATER DISCHARGE PERMITS FOR FOOD SERVICE ESTABLISHMENTS

(a) FOG WASTEWATER DISCHARGE PERMIT REQUIRED

- A Food Service Establishments proposing to discharge or which, upon the effective date of this Chapter, are discharging wastewater-containing FOG into the City's sewer system shall obtain a FOG Wastewater Discharge Permit from the City.
- B. FOG Wastewater Discharge Permits shall be expressly subject to all provisions of this Chapter and all other regulations, charges for use, and fees established by the City. Each permittee shall at all times comply with the terms and condition in its FOG Wastewater Discharge Permit.
- C. FOG Wastewater Discharge Permits granted to Food Service Establishments by the City may be in the following forms:
1. Interim Permit: Upon the effective date of this Chapter, all Food Service Establishments in the City shall be subject to the conditions in a FOG Wastewater Discharge Permit as described in this section. For a period of eighteen (18) months following adoption, all Food Service Establishments will be granted a blanket interim permit until such time as the City's FOG Control Program staff inspects them. Notwithstanding the foregoing, each Food Service Establishment shall at all times comply with the provisions of Sections 16.24.020(a) and (b), and prior to the expiration of the eighteen-month interim permit period, each Food Service Establishment shall obtain a permit pursuant to Subsection (c)(2), (c)(3) or (c)(4) of this Section in order to continue discharging wastewater to the sewer system upon expiration of the interim permit;

2. Regular Permit: A FOG Wastewater Discharge Permit issued upon the installation of a grease interceptor as described in Section 16.24.020(d);
 3. Variance Permit: A FOG Wastewater Discharge Permit issued subject to implementation of Best Management Practices, alternative pretreatment technology and/or payment of a Grease Disposal Mitigation Fee as described in Section 16.24.020(e)(3);
 4. Waiver Permit: A FOG Wastewater Discharge Permit issued pursuant to Section 16.24.020(e) to a Food Service Establishment with a de minimus FOG discharge to the sewer system.
- D. Proper installation and maintenance of a grease interceptor and application for a Regular Permit shall be the standard method of compliance with this Chapter.

(b) FOG WASTEWATER DISCHARGE PERMIT APPLICATION

- (1) Any person required to obtain a FOG Wastewater Discharge Permit shall complete and file with the City prior to commencing or continuing discharges to the sewer system, an application in a form prescribed by the City. The applicable fees shall accompany the application. The applicant shall, at a minimum, submit the following information:
 - (A) Name, address, telephone number, assessor's parcel number(s) and description of the Food Service Establishment's operation, cuisine, service activities, and, as applicable, clients using the applicant's services.
 - (B) (Whichever is applicable) Name, address of any and all principals/owners/major shareholders of the Food Service Establishment; Articles of Incorporation; most recent annual statement filed with the Secretary of State; and Business License.
 - (C) Name and address of property owner or lessor and the property manager for the property where the Food Service Establishment is located.

- (D) Any other information reasonably related to the Food Service Establishment's potential FOG generating or disposal operations as requested by the FOG Control Program Manager.
- (2) Applicants may be required to submit site and facility plans pursuant to Section 16.24.040(a).
- (3) Other information related to the applicant's business operations and potential FOG discharge may be requested to properly evaluate the permit application.
- (4) After evaluation of the data furnished, the City may issue a FOG Wastewater Discharge Permit, subject to terms and conditions designed to meet the purposes of this Chapter and as otherwise determined by the FOG Control Program Manager to be appropriate to protect the City's sewer system and/or the public health and safety.

(c) FOG WASTEWATER DISCHARGE PERMIT CONDITIONS

The issuance of a FOG Wastewater Discharge Permit may contain any of the following conditions or limits:

- (1) Limits on discharge of FOG and other priority pollutants which may cause or contribute to SSOs and/or sewer blockages.
- (2) Requirements for proper operation and maintenance of grease interceptors and other grease control devices.
- (3) Grease interceptor maintenance schedule.
- (4) Requirements for implementation of Best Management Practices and installation of adequate grease interceptor and/or grease control devices.
- (5) Requirements for maintaining and reporting the status of Best Management Practices.
- (6) Requirements for maintaining and submitting logs and records, including wastehauling records and waste manifests.
- (7) Requirements to self-monitor the discharge to the sewer system and periodically assess and report on the condition of the sewer lateral.

- (8) Requirements for the Food Service Establishment to construct, operate and maintain, at its own expense, FOG sampling facilities.
- (9) Additional requirements determined to be reasonably appropriate by the FOG Control Program Manager to protect the City's sewer system or as otherwise specified by other Regulatory Agencies.
- (10) Other terms and conditions reasonably related to the minimization or elimination of FOG discharges to the sewer system.

(d) FOG WASTEWATER DISCHARGE PERMIT APPLICATION FEE

The FOG Wastewater Discharge Application Permit fee shall be paid by the applicant in an amount adopted by ordinance or resolution of the City Council. Payment of the application permit fee must be received by the City at the time of filing the application for the permit. A permittee shall also pay any delinquent invoices in full prior to permit renewal.

(e) MODIFICATION OF FOG WASTEWATER DISCHARGE PERMIT TERMS AND CONDITIONS

- (1) The terms and conditions of an issued permit may be subject to modification in the determination of the FOG Control Program Manager during the life of the permit based on:
 - (A) The discharger's current or anticipated operating data;
 - (B) The City's current or anticipated operating data;
 - (C) Changes in the requirements of Regulatory Agencies which affect the City or sewer system; or
 - (D) A determination by the FOG Control Program Manager that such modification is appropriate to further the objectives of this Chapter.
- (2) A Permittee may request a modification of the terms and conditions of an issued permit. The request shall be in writing stating the requested change, and the reasons for the change. The FOG Control Program

Manager shall review the request, make a determination on the request, and respond in writing.

- (3) The permittee shall be informed of any change in the permit limits, conditions, or requirements at least forty-five (45) days prior to the effective date of the change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
- (4) Any existing Food Service Establishment shall, prior to commencement of either a change in operations which may affect the discharge of FOG to the sewer system or a remodeling project, apply for and obtain a new or modified FOG Wastewater Discharge Permit pursuant to this Section 16.24.030.

(f) FOG WASTEWATER DISCHARGE PERMIT DURATION AND RENEWAL

FOG Wastewater Discharge Permits shall be issued annually. At least 30 days prior to the expiration of the permit, the user shall apply for renewal of the permit in accordance with the provisions of this Section 16.24.030.

(g) EXEMPTION FROM FOG WASTEWATER DISCHARGE PERMIT

A limited food preparation establishment is exempt from the requirement to obtain a FOG Wastewater Discharge Permit.

(h) NON-TRANSFERABILITY OF PERMITS

FOG Wastewater Discharge Permits issued pursuant to this Chapter are for a specific Food Service Establishment, for a specific operation, at a specific location and create no vested rights.

- (1) No permit holder shall assign, transfer or sell any FOG Wastewater Discharge Permit issued pursuant to this Chapter, nor use any such permit for or on any premises or for facilities, operations or discharges not expressly encompassed within the underlying permit.
- (2) Any permit which is transferred to a new owner, operator or facility is void.

(i) FOG WASTEWATER DISCHARGE PERMIT CHARGE FOR USE

A charge to cover all costs of the City for administering the FOG program shall be established by ordinance or resolution of the City Council.

SECTION 16.24.040 FACILITIES REQUIREMENTS

(a) DRAWING SUBMITTAL REQUIREMENTS

Upon request by the City:

- (1) Food Service Establishments may be required to submit two copies of facility site plans, mechanical and plumbing plans, and details to show all sewer locations and connections. The submittal shall be in a form and content acceptable to the City for review of existing or proposed grease control device(s), the grease interceptor, monitoring facilities, metering facilities, and operating procedures. The review of the plans and procedures shall in no way relieve the Food Service Establishments 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 any requirements of other Regulatory Agencies.
- (2) Applicants may be required to submit site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, grease control device(s), the grease interceptor or other pretreatment equipment and appurtenances by size, location, and elevation for evaluation.
- (3) Food Service Establishments may be required to submit a schematic drawing of grease control device(s), the grease interceptor or other pretreatment equipment, piping and instrumentation, as well as a wastewater characterization report.
- (4) The City may require the drawings be prepared by a California Registered Civil, Chemical, Mechanical, or Electrical Engineer, as appropriate.

(b) GREASE INTERCEPTOR REQUIREMENTS

- (1) All Food Service Establishments shall provide wastewater acceptable to the City, under the requirements and standards established herein before discharging, directly or indirectly, to any public sewer. Except as otherwise authorized in this Chapter, any Food Service Establishment required to provide FOG pretreatment shall install, operate, and maintain an adequately sized grease interceptor in accordance with the requirements of this Chapter.
- (2) Grease interceptor sizing and installation shall conform to the current edition of the Uniform Plumbing Code. Grease interceptors shall have a minimum of two compartments with fittings designed for grease retention. Additional compartments may be required depending on the scope of business operations.
- (3) 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.
- (4) Access manholes, with a minimum diameter of 24 inches, shall be provided over each grease interceptor chamber and sanitary tee. The access manholes shall extend at least to finished grade and be designed and maintained to prevent water inflow or infiltration. The manholes shall also have readily removable covers to facilitate inspection, grease removal, and wastewater sampling activities.

(c) GREASE TRAP REQUIREMENTS

- (1) Food Service Establishments may be required to install grease traps in waste lines leading from drains, sinks, and other fixtures or equipment where grease may be introduced into the sewer system in quantities that can cause blockage.
- (2) Sizing and installation of grease traps shall conform to the current edition of the California Plumbing Code.
- (3) Grease traps shall be maintained in efficient operating conditions by removing accumulated grease on a daily basis.

- (4) Grease traps shall be maintained free of all food residues and any FOG waste removed during the cleaning and scraping process.
- (5) Grease traps shall be inspected periodically to check for leaking seams and pipes, and for effective operation of the baffles and flow-regulating device. Grease traps and their baffles shall be maintained free of all caked-on FOG and waste. Removable baffles shall be removed and cleaned during the maintenance process.
- (6) Dishwashers and food waste disposal units shall not be connected to or discharged into any grease trap.

(d) MONITORING FACILITIES REQUIREMENTS

- (1) The City may require a Food Service Establishment to construct and maintain in proper operating condition at the Food Service Establishment's sole expense, flow monitoring, constituent monitoring and/or sampling facilities.
- (2) The location of the monitoring or metering facilities shall be subject to approval by the FOG Control Program Manager.
- (3) Each Food Service Establishments shall provide immediate, clear, safe and uninterrupted access to the FOG Control Program Manager or inspectors to monitoring and metering facilities.
- (4) Food Service Establishments may also be required by the FOG Control Program Manager to submit waste analysis plans and contingency plans to ensure proper operation and maintenance of the grease control device(s) or grease interceptor(s).
- (5) No Food Service Establishment shall increase the use of water or in any other manner attempt to dilute a discharge as a partial or complete substitute for treatment to achieve compliance with the requirements of this Chapter and the terms of an applicable FOG Wastewater Discharge Permit.

(e) REQUIREMENTS FOR BEST MANAGEMENT PRACTICES

- (1) All Food Service Establishments 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.

- (2) All Food Service Establishments shall be required, at a minimum, to comply with the following Best Management Practices:
- (A) Installation of drain screens. Drain screens shall be installed on all drainage pipes in food preparation areas.
 - (B) Segregation and collection of waste cooking oil. All waste cooking oil shall be collected and stored properly in recycling receptacles such as barrels or drums. Such recycling receptacles shall be maintained properly to ensure that they do not leak. Food Service Establishments shall use licensed wastehaulers and licensed recycling facilities to dispose of waste cooking oil.
 - (C) Disposal of food waste. All food waste shall be disposed of directly into the trash or garbage, and not in sinks.
 - (D) Employee training. Employees of Food Service Establishments shall be trained by ownership/management, upon commencement of employment at least annually thereafter, on the following subjects:
 - (i) How to "dry wipe" pots, pans, dishware and work areas before washing to remove grease.
 - (ii) How to properly dispose of 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 grease 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.

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 FOG Control Program Manager or an inspector.

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

(f) GREASE INTERCEPTOR MAINTENANCE REQUIREMENTS

- (1) All Food Service Establishments with grease interceptors shall comply with the following maintenance requirements:

- (A) Grease Interceptors shall be maintained in efficient operating condition by periodic 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 FOG Control Program Manager 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) Food Service Establishments with grease interceptors may be required to submit data and information necessary to establish the maintenance frequency of grease interceptors.

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

- (i) 25% Rule. Grease interceptors shall be fully pumped out and cleaned at a frequency such that the combined FOG and solids accumulation does not exceed 25% of the total designed

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.

- (ii) Each Food Service Establishment with a Grease Interceptor shall fully pump out and clean its grease interceptor not less than every 6 months, unless sooner required by the 25% Rule in subsection (i) above, or a later interval determined under subsection (iii) below.
- (iii) Grease interceptors shall be fully pumped out and cleaned every six months when the frequency described in subsection (i) has not been established. The maintenance frequency may be adjusted by the FOG Control Program Manager when sufficient data have been obtained to establish an average frequency based on the requirements described in subsection (i). The FOG Control Program Manager may change the maintenance frequency at any time to reflect changes in actual operating conditions. Based on the actual generation of FOG from the Food Service Establishment, the maintenance frequency may increase or decrease.
- (iv) The owner/operator of a Food Service Establishment may submit a request to the FOG Control Program Manager requesting a change in the maintenance frequency at any time. The Food Service Establishment shall have the burden to demonstrate that the requested change in frequency reflects actual operating conditions based on the average FOG accumulation over time, meets the requirements described in subsection (i), and that it is in full compliance with the conditions of its permit and the requirements of this Chapter. Upon determination by the FOG Control Program Manager that requested revision is justified, the permit may be revised accordingly to reflect the change in maintenance frequency.

- (v) If the grease interceptor, at any time, contains FOG and/or solids accumulation that does not meet the requirements described in subsection (i), the Food Service Establishment shall have the grease interceptor serviced immediately such that all FOG, sludge, and other materials are completely removed from the grease interceptor. If deemed necessary, the FOG Control Program Manager may also increase the maintenance frequency of the grease interceptor.
- (F) Wastewater, accumulated FOG, floating materials, sludge/solids, and other materials removed from the grease interceptor shall be properly disposed of off site by wastehaulers in accordance with all applicable federal, state and/or local laws.

SECTION 16.24.050 MONITORING, REPORTING, NOTIFICATION, AND INSPECTION REQUIREMENTS

(a) MONITORING AND REPORTING CONDITIONS

(1) Monitoring for Compliance with Permit Conditions and Reporting Requirements

- (A) The FOG Control Program Manager may require periodic reporting of the status of implementation of Best Management Practices, in accordance with the FOG Control Program.
- (B) The FOG Control Program Manager may require visual monitoring and reporting by the City or an approved contractor, at the sole expense of the permittee, to observe the actual conditions of any Food Service Establishment's sewer lateral and sewer lines downstream.
- (C) The FOG Control Program Manager may require reports from any Food Service Establishment for self-monitoring of wastewater constituents and potential FOG accumulation in the private sewer line and for FOG characteristics of any permittee's operations to determine compliance

with any conditions or requirements specified in the applicable FOG Wastewater Discharge Permit or this Chapter. Monitoring reports of the analyses of wastewater constituents and FOG characteristics shall be in a manner and form approved by the FOG Control Program Manager and shall be submitted upon request of the FOG Control Program Manager. Failure by the permittee to perform any required monitoring, or to submit monitoring reports required by the FOG Control Program Manager shall constitute a violation of this Chapter and may be cause for the City to initiate tasks and analyses to determine the wastewater constituents and FOG characteristics for compliance with any conditions and requirements specified in the FOG Wastewater Discharge Permit or in this Chapter. The permittee shall be responsible for any and all expenses of the City in undertaking such monitoring analyses and preparation of reports.

- (D) Other reports may be required of any Food Service Establishment such as compliance schedule progress reports, FOG control monitoring reports, and any other reports deemed reasonably appropriate by the FOG Control Program Manager to ensure compliance with this Chapter.

(2) Record Keeping Requirements

Each Food Service Establishment shall be required to keep all manifests, records, receipts and invoices relating to all cleaning, maintenance and grease removal of/from the grease control device, and the disposal carrier and disposal site location for no less than two years. Each Food Service Establishment shall, upon request, make the manifests, records, receipts and invoices available to any City representative, or inspector. These records shall include:

- (A) A logbook 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 of interceptor contents.

- (D) Records of sampling data and sludge height monitoring for FOG and solids accumulation in the grease interceptors.
- (E) Records of any FOG and/or wastewater spills and records of the cleaning of sewer laterals.
- (F) Any other information deemed appropriate by the FOG Control Program Manager to ensure compliance with this Chapter.

(3) Falsifying Information or Tampering with Process

It shall be unlawful to make any false statement or representation on any record, report, plan or other document that is filed with the City pursuant to this Chapter, or to tamper with or knowingly render inoperable any grease control device, monitoring device or method or access point required under this Chapter.

(b) INSPECTION AND SAMPLING CONDITIONS

- (1) The FOG Control Program Manager may inspect or order the inspection and sample the wastewater discharges of any Food Service Establishment to ascertain whether the intent of this Chapter is being met and the permittee is complying with all requirements. The permittee shall allow the City access to the Food Service Establishment premises, during normal business hours, for purposes of inspecting the Food Service Establishment's grease control devices or interceptor, and reviewing the manifests, records, receipts and invoices relating to the cleaning, maintenance and inspection of the grease control devices or interceptor.
- (2) The FOG Control Program Manager shall have the right to place or order the placement on the Food Service Establishment's property or other locations as determined by the FOG Control Program Manager, such devices as are necessary to conduct sampling or metering operations. Where a Food Service Establishment has security measures in force, the permittee shall make necessary arrangements so that representatives of the City shall be permitted to enter without delay for the purpose of performing their specific responsibilities.

(3) In order for the FOG Control Program Manager to determine the wastewater characteristics of the discharger for purposes of determining the annual use charge and for compliance with permit requirements, the permittee shall make available for inspection and copying by the City all notices, monitoring reports, waste manifests, and records including, but not limited to, those related to wastewater generation, and wastewater disposal without restriction. All such records shall be kept by the permittee a minimum of two (2) years.

(c) RIGHT OF ENTRY

Representatives of a Food Service Establishment where wastewater is created or discharged shall allow the FOG Control Program Manager, or City representatives, reasonable access to all parts of the wastewater generating and disposal facilities for the purposes of inspection and sampling during all times the discharger's facility is open, operating, or any other reasonable times. No person shall interfere with, delay, resist or refuse entrance to City representatives attempting to inspect any Food Service Establishment involved directly or indirectly with a discharge of wastewater to the City's sewer system. In the event of an emergency involving actual or imminent sanitary sewer overflow, City's representatives may access adjoining businesses or properties that share a sewer system with a Food Service Establishment in order to prevent or remediate an actual or imminent sewer overflow.

(d) NOTIFICATION OF SPILL

(1) In the event a permittee is unable to comply with any permit condition due to a breakdown of equipment, accident, or human error or the permittee has reasonable opportunity to know that his/her/its discharge will exceed the discharge provisions of the applicable FOG Wastewater Discharge Permit or this Chapter, the discharger shall immediately notify the City by telephone at the number specified in the permit. If the material discharged to the sewer has the potential to cause or result in sewer blockages or SSOs, the discharger shall immediately notify the local Health Department, and the City.

(2) Confirmation of this notification shall be made in writing to the FOG Control Program Manager at the

address specified in the permit no later than five (5) working days from the date of the incident. The written notification shall state the date of the incident, 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.

- (3) Such notification shall not relieve the permittee of any expense, loss, damage or other liability which may be incurred as a result of damage or loss to the City or any other damage or loss to person or property; nor shall such notification relieve the permittee of any fees or other liability which may be imposed pursuant to this Chapter or other applicable law.

(e) NOTIFICATION OF PLANNED CHANGES

Permittees shall notify the City at least 60 days in advance prior to any facility expansion/remodeling, or process modifications that may result in new or substantially increased FOG discharges or a change in the nature of the discharge. Permittees shall notify the City in writing of the proposed expansion or remodeling and shall submit any information requested by the City for evaluation of the effect of such expansion on the permittee's FOG discharge to the sewer system.

SECTION 16.24.060 ENFORCEMENT

(a) GENERAL PROCEDURE

- (1) To ensure that all interested parties are afforded due process of law and that violations are resolved as soon as possible, the general policy of the City is that any determination relating to a notice of violation and compliance schedule order (CSO) will be made by the City Administrator upon information provided by the FOG Control Program Manager or inspector, with a right of appeal by the permittee to the City Council pursuant to the procedures set forth in 16.24.060(1).
- (2) The City, at its discretion, may utilize any one, combination, or all enforcement remedies provided in Section 16.24.060 in response to any permit violation or other violation of this Chapter.

(b) DETERMINATION OF NONCOMPLIANCE WITH FOG WASTEWATER DISCHARGE PERMIT CONDITIONS

(1) Sampling and Inspection Procedures

- (A) Sampling and inspection of Food Service Establishments shall be conducted in the time, place, manner, and frequency determined at the sole discretion of the FOG Control Program Manager.
- (B) Noncompliance with permit discharge conditions, or any discharge provision of this Chapter may be determined by an inspection of a grease control device, grease interceptor and associated manifest(s) and documentation; analysis of a grab or composite sample of the effluent of a Food Service Establishment; or by other information relating to the operations of or discharge from a Food Service Establishment.
- (C) Any sample taken from a designated sample point shall be considered to be representative of the discharge to the public sewer.

(2) Noncompliance fee

Any permittee determined to be in noncompliance with the terms and conditions specified in its permit or with any provision of this Chapter shall pay a noncompliance fee. The purpose of the noncompliance fee is to compensate 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 Sections 16.24.060(j) and 16.24.060(k). Noncompliance fees shall be in the amount adopted by ordinance or resolution of the City Council.

(c) COMPLIANCE SCHEDULE ORDER (CSO)

- (1) Upon determination that a permittee is in noncompliance with the terms and conditions specified in its permit or any provision of this Chapter, or needs to construct and/or acquire and install a grease control device or

grease interceptor, the FOG Control Program Manager may issue to the permittee a CSO.

- (2) The CSO may contain terms and conditions including but not limited to requirements for installation of a grease control device, grease interceptor and facilities, submittal of drawings or reports, audit of waste hauling records, best management and waste minimization practices, payment of fees, or other provisions to ensure compliance with this Chapter.
- (3) If compliance is not achieved in accordance with the terms and conditions of a CSO during its term, the FOG Control Program Manager may issue an order suspending or revoking the applicable FOG Wastewater Discharge Permit pursuant to 16.24.060(d) or 16.24.060(e) of these regulations.

(d) PERMIT SUSPENSION

- (1) The City Administrator may suspend any permit when it is determined that a permittee:
 - (A) Fails to comply with the terms and conditions of a CSO.
 - (B) Knowingly provides a false statement, representation, record, report, or other document to the City.
 - (C) Refuses to provide records, reports, plans, or other documents required by the City to determine permit terms or conditions, discharge compliance, or compliance with this Chapter.
 - (D) Falsifies, tampers with, or knowingly renders inaccurate any monitoring device or sample collection method.
 - (E) Refuses reasonable access to the permittee's premises for the purpose of inspection and monitoring.
 - (F) Does not make timely payment of all amounts owed to the City for user charges, permit fees, or any other fees imposed pursuant to this Chapter.

- (G) Causes interference, a sewer blockage, or an SSO in the sewer system.
 - (H) Violates grease interceptor maintenance requirements, any condition or limit of its FOG Wastewater Discharge Permit or any provision of this Chapter.
- (2) When the FOG Control Program Manager has reason to believe that grounds exist for permit suspension, he/she shall give written notice thereof by certified mail to the permittee setting forth a statement of the facts and grounds deemed to exist, together with the time and place where the charges shall be heard by the City Administrator. The hearing date shall be not less than fifteen (15) calendar days nor more than forty-five (45) calendar days after the mailing of such notice.
- (A) At the suspension hearing, the permittee shall have an opportunity to respond to the allegations set forth in the notice by presenting written or oral evidence. The hearing shall be conducted in accordance with procedures established by the City Administrator.
 - (B) If the City Administrator designates a hearing officer, after the conclusion of the hearing, the hearing officer shall submit a written report to the City Administrator setting forth a brief statement of facts found to be true, a determination of the issues presented, conclusions, and a recommendation.
 - (C) Upon receipt of the written report of the hearing officer or conclusion of the hearing, if the City Administrator conducts the hearing, the City Administrator shall make his/her determination and should he/she find that grounds exist for suspension of the permit, he/she shall issue his/her decision and order in writing within thirty (30) calendar days after the conclusion of the hearing. The written decision and order of the City Administrator shall be sent by certified mail to the permittee or its legal counsel/representative at the permittee's business address.

(3) Effect:

- (A) Upon an order of suspension by the City Administrator becoming final, the permittee shall immediately cease and desist its discharge and shall have no right to discharge any wastewater containing FOG directly or indirectly to the City's sewer system for the duration of the suspension. All costs for physically terminating and reinstating sewer service shall be paid by the permittee.
- (B) Any owner or responsible management employee of the permittee shall be bound by the order of suspension.
- (C) An order of permit suspension issued by the City Administrator shall be final in all respects on the sixteenth (16th) day after it is mailed to the permittee unless a request for hearing with the City Council is filed with the City Clerk pursuant to 16.24.060(1) no later than 4:30 p.m. on the fifteenth (15th) day following such mailing.

(e) PERMIT REVOCATION

- (1) The City Administrator may revoke any permit when it is determined that a permittee:
 - (A) Knowingly provides a false statement, representation, record, report, or other document to the City.
 - (B) Refuses to provide records, reports, plans, or other documents required by the City to determine permit terms, conditions, discharge compliance, or compliance with this Chapter.
 - (C) Falsifies, tampers with, or knowingly renders inaccurate any monitoring device or sample collection method.
 - (D) Fails to comply with the terms and conditions of a permit suspension or CSO.
 - (E) Discharges effluent to the sewer system while its permit is suspended.

- (F) Refuses reasonable access to the permittee's premises for the purpose of inspection and monitoring.
 - (G) Does not make timely payment of all amounts owed to the City for user charges, permit fees, or any other fees imposed pursuant to this Chapter.
 - (H) Causes interference, a sewer blockage, or an SSO in the sewer system.
 - (I) Violates grease interceptor maintenance requirements, any condition or limit of its FOG Wastewater Discharge Permit or any provision of this Chapter.
- (2) When the FOG Control Program Manager has reason to believe that grounds exist for the revocation of a permit, he/she shall give written notice by certified mail thereof to the permittee setting forth a statement of the facts and grounds deemed to exist together with the time and place where the charges shall be heard by the City Administrator. The hearing date shall be not less than fifteen (15) calendar days nor more than forty-five (45) calendar days after the mailing of such notice.
- (A) At the revocation hearing, the permittee shall have an opportunity to respond to the allegations set forth in the notice by presenting written or oral evidence. The hearing shall be conducted in accordance with the procedures established by the City Administrator.
 - (B) If the City Administrator designates a hearing officer, after the conclusion of the hearing, the hearing officer shall submit a written report to the City Administrator setting forth a brief statement of facts found to be true, a determination of the issues presented, conclusions, and a recommendation.
 - (C) Upon receipt of the written report of the hearing officer, or conclusion of the hearing, if the City Administrator conducts the hearing, the City Administrator shall make his/her determination and should he/she find that grounds exist for permanent revocation of the permit, he/she shall

issue his/her decision and order in writing within thirty (30) calendar days after the conclusion of the hearing. The written decision and order of the City Administrator shall be sent by certified mail to the permittee or its legal counsel/representative at the permittee's business address.

In the event the City Administrator determines to not revoke the permit, he/she may order other enforcement actions, including, but not limited to, a temporary suspension of the permit, under terms and conditions that he/she deems appropriate.

(3) Effect

- (A) Upon an order of revocation by the City Administrator becoming final, the permittee shall permanently lose all rights to discharge any wastewater containing FOG directly or indirectly to the City's sewer system. All costs for physical termination of sewer service shall be paid by the permittee.
- (B) Any owner or responsible management employee of the permittee shall be bound by the order of revocation.
- (C) Any future application for a permit at any location within the City by any person associated with an order of revocation will be considered by the City after fully reviewing the records of the revoked permit, which records may be the basis for denial of a new permit.
- (D) An order of permit revocation issued by the City Administrator shall be final in all respects on the sixteenth (16th) day after it is mailed to the permittee unless a request for hearing with the City Council is filed with the City Clerk pursuant to 16.24.060(1) no later than 4:30 p.m. on the fifteenth (15th) day following such mailing.

(f) DAMAGE TO FACILITIES OR INTERRUPTION OF NORMAL OPERATIONS

- (1) Any person who discharges any waste and/or wastewater which causes or contributes to any sewer blockage, SSO,

obstruction, interference, damage, or any other impairment to the City's sewer facilities or to the operation of those facilities shall be liable for all costs incurred to clean or repair the facilities together with expenses incurred by the City to resume normal operations, including all City overhead expenses related to the event. The total amount shall be payable within forty-five (45) days of invoicing by the City.

- (2) Any person who discharges waste and/or wastewater to the sewer system which causes or contributes to the City violating discharge requirements established by any Regulatory Agency shall be liable for any costs or expenses incurred by the City as a result, including but not limited to regulatory fines, penalties, and assessments made by other agencies or a court.

(g) PUBLIC NUISANCE

The discharge of waste and/or wastewater in any manner in violation of this Chapter or of any order issued by the FOG Control Program Manager or City Administrator, as authorized by this Chapter, is hereby declared a public nuisance and may be corrected or abated as directed by the FOG Control Program Manager or City Administrator. Any person creating a public nuisance is guilty of a misdemeanor.

(h) TERMINATION OF SERVICE

- (1) The City, by order of the City Administrator, may physically terminate sewer service to any property as follows:
 - (A) On a term of any order of suspension or revocation of a permit; or
 - (B) Upon the failure of a person not holding a valid FOG Wastewater Discharge Permit to immediately cease the discharge, whether direct or indirect, to the City's sewer facilities after the notice and process in accordance with Section 16.24.060(e)(2) herein.
- (2) All costs for physical termination shall be paid by the owner or operator of the Food Service Establishment or permittee as well as all costs for reinstating service.

(i) EMERGENCY SUSPENSION ORDER

- (1) The City may, by order of the City Administrator, suspend sewer service when the City Administrator determines that such suspension is necessary in order to stop an actual or impending discharge which presents or may present an imminent or substantial endangerment to the health and welfare of persons, or to the environment, or may cause an SSO, sewer blockage, interference to the City's sewer facilities, or may cause the City to violate any State or Federal Law or Regulation. Any discharger notified of and subject to an Emergency Suspension Order shall immediately cease and desist the discharge of all waste and/or wastewater containing FOG to the sewer system.
- (2) As soon as reasonably practicable following the issuance of an Emergency Suspension Order, but in no event more than five (5) business days following the issuance of such order, the City Administrator shall hold a hearing to provide the Food Service Establishment or permittee the opportunity to present information in opposition to the issuance of the Emergency Suspension Order. Such a hearing shall not stay the effect of the Emergency Suspension Order. The hearing shall be conducted in accordance with procedures established by the City Administrator. The City Administrator shall issue a written decision and order within two (2) business days following the hearing, which decision shall be sent by certified mail to the Food Service Establishment or its legal counsel/representative at that Food Service Establishment's business address. The decision of the City Administrator following the hearing shall be final and not appealable to the City Council, but may be subject to judicial review pursuant to Section 16.24.060(n).

(j) CIVIL PENALTIES

- (1) All users of the City's sewer system and facilities are subject to enforcement actions administratively or judicially by the City, U.S. EPA, State of California Regional Water Quality Control Board or the County of Orange. Such actions may be taken pursuant to the authority and provisions of several laws, including but not limited to: (1) Federal Water Pollution Control Act, commonly known as the Clean Water Act (33 U.S.C.A.

Section 1251 et seq.); (2) California Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq.); (3) California Hazardous Waste Control Law (California Health & Safety Code Sections 25100 to 25250); (4) Resource Conservation and Recovery Act of 1976 (42 U.S.C.A Section 6901 et seq.); and (5) California Government Code, Sections 54739-54740.6.

- (2) In the event the City is subject to the payment of fines or penalties pursuant to the legal authority and actions of other regulatory or enforcement agencies based on a violation of law or regulation or its permits, and such violation can be established by the City as caused by the discharge of any user of the City's sewer system which is in violation of any provision of this Chapter or the user's permit, the City shall be entitled to recover from the user all costs and expenses, including, but not limited to, the full amount of such fines or penalties to which it has been subjected.
- (3) Pursuant to the authority of California Government Code Sections 54739 - 54740, any person who violates any provision of this Chapter; any permit condition, prohibition or effluent limit; or any suspension or revocation order shall be liable civilly for a sum not to exceed \$25,000.00 per violation for each day in which such violation occurs. Pursuant to the authority of the Clean Water Act, 33 U.S.C. Section 1251 et seq., any person who violates any provision of this Chapter, or any permit condition, prohibition, or effluent limit shall be liable civilly for a sum not to exceed \$25,000.00 per violation for each day in which such violation occurs. The City Attorney, upon request of the City Administrator, shall petition the Superior Court to impose, assess, and recover such penalties, or such other penalties as the City may impose, assess, and recover pursuant to Federal and/or State legislative authorization.

(4) Administrative Civil Penalties

- (A) Pursuant to the authority of California Government Code Sections 54740.5 and 54740.6, the City may issue an administrative complaint to any person who violates:
- (i) any provision of these regulations;
 - (ii) any permit condition, prohibition, or effluent limit; or
 - (iii) any suspension or revocation order.
- (B) The administrative complaint shall be served by personal delivery or certified mail on the person and shall inform the person that a hearing will be conducted, and shall specify a hearing date within sixty (60) days following service. The administrative complaint will allege the act or failure to act that constitutes the violation of the City's regulations, the provisions of law authorizing civil liability to be imposed, and the proposed civil penalty. The matter shall be heard by the City Administrator. The person to whom an administrative complaint has been issued may waive the right to a hearing, in which case a hearing will not be conducted.
- (C) At the hearing, the person shall have an opportunity to respond to the allegations set forth in the administrative complaint by presenting written or oral evidence. The hearing shall be conducted in accordance with the procedures established by the City Administrator.
- (D) If the City Administrator designates a hearing officer, after the conclusion of the hearing, the hearing officer shall submit a written report to the City Administrator setting forth a brief statement of the facts found to be true, a determination of the issues presented, conclusions, and a recommendation.
- (E) Upon receipt of the written report of the hearing officer, or conclusion of the hearing if the City Administrator conducts the hearing, the City Administrator shall make his/her determination and

should he/she find that grounds exist for assessment of a civil penalty against the person, he/she shall issue his/her decision and order in writing within thirty (30) calendar days after the conclusion of the hearing.

- (F) If, after the hearing or appeal, if any, it is found that the person has violated reporting or discharge requirements, the City Administrator or City Council may assess a civil penalty against that person. In determining the amount of the civil penalty, the City Administrator or City Council may take into consideration all relevant circumstances, including but not limited to the extent of harm caused by the violation, the economic benefit derived through any non-compliance, the nature and persistence of the violation, the length of time over which the violation occurs, and corrective action, if any, attempted or taken by the person involved.
- (G) Civil penalties may be assessed as follows:
 - (i) In an amount which shall not exceed two thousand dollars (\$2,000.00) for each day for failing or refusing to furnish required reports;
 - (ii) In an amount which shall not exceed three thousand dollars (\$3,000.00) for each day for failing or refusing to timely comply with any compliance schedules established by the City;
 - (iii) In an amount which shall not exceed five thousand dollars (\$5,000.00) per violation for each day of discharge in violation of any waste discharge limit, permit condition, or requirement issued, reissued, or adopted by the City;
 - (iv) In an amount which does not exceed ten dollars (\$10.00) per gallon for discharges in violation of any suspension, revocation, cease and desist order or other order or prohibition issued, reissued, or adopted by the City;

- (H) An order assessing administrative civil penalties issued by the City Administrator shall be final in all respects on the thirty-first (31st) day after it is served on the person unless an appeal and request for hearing with the City Council is filed with the City Clerk pursuant to Section 16.24.060(1) no later than the thirtieth (30th) day following such mailing. An order assessing administrative civil penalties issued by the City Council shall be final upon issuance.
- (I) Copies of the administrative order shall be served on the party served with the administrative complaint, either by personal service or by registered mail to the person at his/her/its business or residence address, and upon other persons who appeared at the hearing and requested a copy of the order.
- (J) Any person aggrieved by a final order issued by the City Council, after granting review of the order of the City Administrator, may obtain review of the order of the City Council in the superior court, pursuant to Government Code Section 54740.6, by filing in the court a petition for writ of mandate within thirty (30) days following the service of a copy of the decision or order issued by the City Council.
- (K) Payment of any order setting administrative civil penalties shall be made within thirty (30) days of the date the order becomes final. The amount of any administrative civil penalties imposed shall constitute a debt to the City.
- (L) No administrative civil penalties shall be recoverable for any violation for which the City has recovered civil penalties through a judicial proceeding filed pursuant to Government Code Section 54740.

(k) CRIMINAL PENALTIES

Any person who violates any provision of these regulations is guilty of a misdemeanor, which upon conviction is punishable by a fine not to exceed \$1,000.00, or imprisonment for not more than one year, or both. Each violation and each day in which a violation occurs shall

constitute a new and separate violation of this Chapter and shall be subject to the penalties contained herein.

(1) APPEALS TO THE CITY COUNCIL

- (1) Any Food Service Establishment, permit applicant, or permittee adversely affected by a decision, action, or determination made by the FOG Control Program Manager or City Administrator may, prior to the date that the City Administrator's order becomes final, file with the City Clerk a written request for hearing before the City Council accompanied by an appeal fee in the amount established by a separate ordinance or resolution of the City Council. The request for hearing shall set forth in detail all the issues in dispute for which the appellant seeks a determination and all facts supporting appellant's request.

No later than twenty-five (25) days after receipt of the request for hearing, the City Council shall either set the matter for a hearing, or deny the request for a hearing.

A hearing shall be held by the City Council within thirty (30) days from the date of determination granting a hearing, unless a later date is agreed to by the appellant and the City Council. If the matter is not heard within the required time, due to actions or inactions of the appellant, the City Administrator's order shall be deemed final.

- (2) The City Council shall grant all requests for a hearing on appeals concerning permit suspension, revocation, or denial. Whether to grant or deny the request for a hearing on appeals of other decisions of the City Administrator shall be within the sole discretion of the City Council.
- (3) The appeal fee shall be refunded if the City Council denies a hearing or reverses or modifies, in favor of the appellant, the order of the City Administrator. The fee shall not be refunded if the City Council denies the appeal.
- (4) After the hearing, the City Council shall make a determination whether to uphold, modify, or reverse the decision, action, or determination made by the City Administrator.

The decision of the City Council shall be set forth in writing within thirty (30) days after the close of the hearing and shall contain findings of the facts found to be true, the determination of issues presented, and the conclusions. The written decision and order of the City Council shall be sent by certified mail to the appellant or its legal counsel/representative at the appellant's business address.

The order of the City Council shall be final upon its adoption. In the event the City Council fails to reverse or modify the City Administrator's order, it shall be deemed affirmed.

(m) PAYMENT OF CHARGES

- (1) Except as otherwise provided, all fees, charges and penalties established by these regulations are due and payable upon receipt of notice thereof. Accounts shall become delinquent if not paid within thirty (30) days of the date of mailing, or if personally delivered, the date of delivery. Any action for collection may include an application for an injunction to prevent repeated and recurring violations of this Chapter.
- (2) Any invoice outstanding and unpaid after ninety (90) days shall be cause for immediate initiation of permit revocation proceedings or immediate suspension of the permit.
- (3) Penalties charged under this Section shall not accrue to those invoices successfully appealed, provided the City receives written notification of the successful appeal prior to the payment due date. However, payment of disputed charges is still required by the due date during City review of any appeal submitted by permittees.

(n) JUDICIAL REVIEW

- (1) Pursuant to Section 1094.6 of the California Code of Civil Procedure, the City hereby enacts this part to limit to ninety (90) days following final decisions in adjudicatory administrative hearings the time within which an action can be brought to review such decisions by means of administrative mandamus.

(2) Definitions

As used in this section, the following terms and words shall have the following meanings:

- (A) Decision shall mean and include adjudicatory administrative decisions that are made after hearing, or after revoking, suspending, or denying an application for a permit.
 - (B) Complete Record shall mean and include the transcript, if any exists, of the proceedings, all pleadings, all notices and orders, any proposed decision by the City's officers, agents, or employees, the final decision, all admitted exhibits, all rejected exhibits in the possession of the City or its officers, agents or employees, all written evidence, and any other papers in the case.
- (3) Time Limit for Judicial Review. Judicial review of any decision of the City or its officer or agent may be made pursuant to Section 1094.5 of the Code of Civil Procedure only if the petition for writ of mandate is filed not later than the ninetieth (90th) day following the date on which the decision becomes final. If there is no provision for reconsideration in the procedures governing the proceedings or if the date is not otherwise specified, the decision is final on the date it is made. If there is provision for reconsideration, the decision is final upon the expiration of the period during which such reconsideration can be sought; provided that if reconsideration is sought pursuant to such provision the decision is final for the purposes of this Section on the date that reconsideration is rejected.
- (4) The complete record of the proceedings shall be prepared by the City officer or agent who made the decision and shall be delivered to the petitioner within ninety (90) days after he/she has filed written request therefor. The City may recover from the petitioner its actual costs for transcribing and otherwise preparing the record.
- (5) If the petitioner files a request for the record within ten (10) days after the date the decision becomes final, the time within which a petition, pursuant to

Section 1094.5 of the Code of Civil Procedure, may be filed shall be extended to not later than the thirtieth (30th) day following the date on which the record is either personally delivered or mailed to the petitioner or the petitioner's attorney of record, if appropriate.

- (6) In issuing a final decision, the City shall provide notice to the party that Section 1094.6 of the Code of Civil Procedure governs the time within which judicial review must be sought.
- (7) Notwithstanding the foregoing, and pursuant to Government Code Section 54740.6, judicial review of an order of the City Council imposing administrative civil penalties pursuant to Section 16.24.060(j)(4) may be made only if the petition for writ of mandate is filed not later than the thirtieth (30th) day following the day on which the order of the City Council becomes final.

SECTION 16.24.070 SEVERABILITY

If any section, subsection, subdivision, sentence, clause, phrase or word of this Chapter is for any reason held to be unconstitutional or otherwise invalid, such invalidity shall not affect the validity of this entire Chapter or any of the remaining portions hereof. The City Council hereby declares that it would have adopted this Chapter, and each section, subsection, subdivision, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases or words be declared unconstitutional or otherwise invalid.

SECTION 16.24.080 CALIFORNIA BUILDING STANDARDS LAW FINDINGS

Pursuant to the provisions of the California Building Standards Law, California Health and Safety Code Sections 18941.5, 17958, 17958.5 and 17958.7, the City Council hereby finds that the amendments to the State Building Standards and Housing Laws, more particularly the California Plumbing Code, adopted herein are necessary because of climatic, geological or topographical

conditions of property in the City's jurisdiction, and as more specifically described below.

- A. Articles 2 and 4 modify the authority and discretion of the "Administrative Authority" of Section 1014.1 of the 2001 California Plumbing Code by requiring all Food Service Establishments to install and operate a grease control device, which may be a grease interceptor or grease trap, if no other device, mechanism, or process is found to successfully trap or collect or treat FOG prior to it being discharged into the sewer system.
- B. Section 16.24.040 modifies the general maintenance requirements for grease interceptors of Section 1014.6 of the 2001 California Plumbing Code and establishes more specific maintenance requirements.

FINDINGS FOR "A" AND "B": The City's topography and geography that has created the Santa Ana Watershed and the City's proximity to the Pacific Ocean coupled with the general waste discharge requirements imposed by the RWQCB require the strict compliance with grease control device regulations to prevent sewer system overflows that threaten the health and safety of the public within the immediate vicinity of the overflow and downstream to the local beaches.

- C. Administrative/Procedural Amendments. Additional amendments and deletions to the California Plumbing Code are found to be administrative or procedural and are found to be reasonable and necessary to safeguard life and property within the City.