

## ORDINANCE NO. 03-03

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BUELLTON, CALIFORNIA, AMENDING TITLE 14, “SEWER CODE” OF THE BUELLTON MUNICIPAL CODE BY REPEALING CHAPTER 14.04, AND REPLACING IT IN ITS ENTIRETY WITH NEW CHAPTER 14.04 “GENERAL PROVISIONS AND DEFINITIONS;” ADDING NEW SECTIONS 14.08.011 – 14.08.018, 14.24.030.R and 14.24.030.S; REPEALING SECTION 14.24.050 AND REPLACING IT IN ITS ENTIRETY WITH NEW SECTION 14.24.050 “GREASE INTERCEPTORS AND GRAVITY SEPARATING DEVICES;” REPEALING SECTION 14.24.080 AND REPLACING IT IN ITS ENTIRETY WITH NEW SECTION 14.24.080 “AGREEMENTS WITH USERS; VARIANCES;” ADDING NEW SECTIONS 14.24.100 – 14.24.170; ADDING NEW CHAPTER 14.56, “PRETREATMENT OF INDUSTRIAL WASTEWATER;” ADDING NEW CHAPTER 14.60, “INDUSTRIAL WASTEWATER DISCHARGE PERMIT SYSTEM;” ADDING NEW CHAPTER 14.64, “INDUSTRIAL WASTEWATER REPORTING REQUIREMENTS;” ADDING NEW CHAPTER 14.68, “INDUSTRIAL WASTEWATER COMPLIANCE MONITORING;” ADDING NEW CHAPTER 14.72, “ADMINISTRATIVE ENFORCEMENT REMEDIES;” AND ADDING NEW CHAPTER 14.76, “JUDICIAL ENFORCEMENT REMEDIES”**

### **A. Recitals.**

(i.) Title 14 of the Buellton Municipal Code contains the provisions of the Buellton “Sewer Code”; and,

(ii.) Recent changes to applicable state and federal law regarding municipal wastewater systems, including the Clean Water Act (33 U.S.C. sections 1251 *et. seq.*), general Pretreatment regulations (including, but not limited to 40 Code of Federal Regulations Part 403), and the requirements of any National Pollutant Discharge Elimination System (“NPDES”) permit or “Waste Discharge Requirement” issued by a California Regional Water Quality Control Board or other agency to the City of Buellton, require that the provisions of Title 14 be amended consistent with such requirements; and,

(iii.) The requirements and provisions set forth in this Ordinance are found to be categorically exempt from the requirements of the California Environmental Quality Act (“CEQA”), Public Resources Code sections 21000 *et seq.*, the State CEQA Guidelines, 14 California Code of Regulations sections 15000 *et seq.*, and the CEQA Guidelines of the City of

Buellton pursuant to CEQA Guidelines Section 15308 as a regulatory process involving procedures for the protection of the environment; and,

(iv.) All legal prerequisites prior to the adoption of this Ordinance have occurred.

**B. Ordinance.**

**THE CITY COUNCIL OF THE CITY OF BUELLTON DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** Chapter 14.04 of the Buellton Municipal Code is hereby deleted in its entirety and a new Chapter 14.04 is hereby added, to read as follows:

**“Chapter 14.04**

**GENERAL PROVISIONS AND DEFINITIONS**

**Sections:**

<b>14.04.010</b>	<b>Purpose and policy</b>
<b>14.04.020</b>	<b>Administration</b>
<b>14.04.030</b>	<b>Abbreviations and acronyms</b>
<b>14.04.040</b>	<b>Definition</b>
<b>14.04.050</b>	<b>Severability</b>
<b>14.04.060</b>	<b>Relief on application</b>

**14.04.010 Purpose and policy**

This Title sets forth uniform requirements for Users of the Municipal Wastewater System of the City and enables the City to comply with all applicable State and federal laws including the Clean Water Act (33 U.S.C. sections 1251 *et. seq.*), general Pretreatment regulations (including, but not limited to 40 Code of Federal Regulations Part 403), and the requirements of any National Pollutant Discharge Elimination System (“NPDES”) permit or “Waste Discharge Requirement” issued by a California Regional Water Quality Control Board or other agency to the City. This Title is enacted pursuant to the City’s authority under Article XI, § 7 of the California Constitution, the California Health & Safety Code and the California Water Code, as they, from time to time, may be amended. The objectives of this Title are:

A. To prevent the introduction into the System of Pollutants that could pass through the System inadequately treated, enter receiving waters, or otherwise interfere with or be incompatible with the System;

B. To protect the general public and City personnel who may be affected by

Wastewater and sludge in the course of their employment and;

- C. To promote reuse and recycling of Wastewater and biosolids from the System;
- D. To provide for a system to set and adopt Fees for the equitable distribution of the cost of operation, maintenance and improvement of the System; and
- E. To enable the City to comply with the federal Clean Water Act, the California Water Code, NPDES permit conditions, if any, the provisions of any Waste Discharge Requirements issued by a California Regional Water Quality Control Board, sludge use and disposal requirements and any other federal or state laws and regulations to which the System is subject.

F. This Title authorizes the issuance of Industrial Wastewater Discharge (“IWD”) permits; authorizes monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires User reporting; and provides for the setting of Fees for the equitable distribution of costs resulting from the program established herein.

G. This Title shall apply to all Persons within the City who use the System and to Persons outside the City who, by contract with the City, are included as Users of the System. By discharging Wastewater into the System, Users located beyond the City limits agree to comply with the terms and conditions established in this Title, as well as any permits, contracts or orders issued hereunder.

#### **14.04.020. Administration**

A. Except as otherwise provided herein, the Public Works Director shall administer, implement and enforce the provisions of this Title. Powers granted to or duties imposed upon the Public Works Director may be delegated by the Public Works Director to other City personnel.

B. The City is authorized to promulgate regulations and standards reasonably necessary to protect the System, to comply with all applicable federal and state laws and Pretreatment regulations, to control and regulate the proper use of the System, to regulate the rate of flow and the quality and quantity of Wastewater Discharges to the System, to prevent overflow, and to provide for the issuance, suspension or revocation of IWD Permits, provided, however, the regulations shall be consistent with the provisions of this Title and formulated to result in the uniform control of the System.

C. The City shall be the exclusive provider of Sewer and related services within the City. This section shall not be construed in such a manner as to prevent the City from contracting for the provision of any part or all of the Sewer and Sewer-related service requirements of the City or its inhabitants.

#### **14.04.030. Abbreviations and acronyms**

For purposes of this Title the following abbreviations and acronyms shall have the designated meanings:

- BOD Biochemical Oxygen Demand

- C.F.R. Code of Federal Regulations
- COD chemical oxygen demand
- EPA U.S. Environmental Protection Agency
- gpd gallons per day
- IWD Industrial Wastewater Discharge
- LC<sub>50</sub> lethal concentration for 50% of the test organisms
- L liter
- mg milligrams
- mg/L milligrams per Liter
- NPDES National Pollutant Discharge Elimination System
- O & M operation and maintenance
- POTW publicly owned treatment works
- RCRA Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq.
- SIC standard industrial classification
- TDS total dissolved solids
- TSS total suspended solids
- TTO total toxic organics
- USC United States Code

#### **14.04.040. Definitions**

Except as otherwise provided in this Title, or unless the context of the Code requires otherwise, the following words shall be given the meanings and construction set forth in this Title. Words and phrases not ascribed a meaning in this Chapter shall have the meaning ascribed elsewhere under this Code, or under the California Water Code, if defined therein, and if not, by the federal Clean Water Act, and regulations implementing the Clean Water Act. Terms not defined in any of the foregoing shall be construed in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

**‘Act’** means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. sections 1251, *et seq.*, as it may be amended, and any regulations and standards promulgated by the United States Environmental Protection Agency pursuant to the Act.

**‘Applicant’** means the Person or entity making application for a permit. No Person shall be an Applicant who is not the owner or duly authorized agent of the owner or Person in charge of day-to-day activities of the premises from which Wastewater is to be Discharged.

**‘Authorized Representative of the User’** as defined in 40 C.F.R. § 403.12(1) means:

- (a) If the User is a corporation:

(1) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other Person who performs similar policy or decision-making functions for the corporation, or

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

(b) If the User is a partnership, association, or sole proprietorship: a general partner or proprietor, respectively.

(c) If the User is a federal, State, or local government facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(d) The individuals described in subparagraphs (a) through (c), above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the Discharge originates or having overall responsibility for environmental matters for the User, and the written authorization is submitted to the City.

**'Biochemical Oxygen Demand'** means quantity of oxygen utilized in the biochemical oxidation of organic material under standard laboratory procedures for five days at 20° centigrade, usually expressed as a concentration such as mg/L.

**'Building Sewer'** means a Sewer conveying Wastewater from the premises of a Person to the public Sewer, private Sewer, individual Wastewater disposal system or other approved point of disposal.

**'Bypass'** means the intentional diversion of Waste and/or Wastewater from any portion of a User's Pretreatment Facility.

**'Categorical Pretreatment Standard' or 'Categorical Standard'** means any regulation containing pollutant discharge Pretreatment Standards promulgated by the EPA in pursuant to the Act, in 40 C.F.R. Part 403, or elsewhere.

**'Categorical User'** means an Industrial User subject to National Categorical Pretreatment Standards, as set forth in 40 C.F.R. Part 403, or elsewhere.

**'City'** means the City of Buellton, California.

**'City Manager'** means the City Manager of the City or the City Manager's designee.

**'Color'** means the optical density at the visual wave length of maximum absorption, relative to distilled water in which 100% transmittance is equivalent to zero optical density.

**'Compliance Schedule'** means a schedule containing increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of Pretreatment equipment and/or systems required for the User to meet applicable Pretreatment Standards.

**'Composite Sample'** means the sample resulting from the combination of individual Wastewater samples taken at selected intervals, based on an increment of either flow or time.

**'Connection'** means that part of any Sewer extending from a Sewer main in a public easement or right-of-way to private property for exclusive use of the property.

**‘Cooling Water’** means the water discharged from any use, including but not limited to, air conditioning, cooling or refrigeration units to which the only Pollutant added is heat.

**‘Discharge’** means the discharge or the introduction of Pollutants into the System by a Person.

**‘Domestic Wastewater’** means liquid Waste free of Industrial Wastewater, discharged from residential, commercial and industrial premises into the System.

**‘Environmental Protection Agency’** means the U.S. Environmental Protection Agency or, where appropriate, any other duly authorized official to whom EPA’s authority has been delegated.

**‘Existing Source’** means any source of Discharge, the construction or operation of which commenced prior to the publication by EPA of proposed Categorical Pretreatment Standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the Act.

**‘Fee’** means any charge assessed to a Person associated with the use, or continued use, of any portion of the System and includes, but is not limited to, a charge for Connection or tap for new customers; monthly Sewer service; IWD Permit; excess capacity Connection; Wastewater treatment; excessive Wastewater strength; laboratory testing; waste hauler's permit; oversize Sewer; and noncompliance.

**‘Food Establishment’** means a facility engaged in the preparation of food products for sale. A facility engaged in the sale of food products that are wholly prepared off-site is not included within this definition. The term ‘Food Establishment’ includes Restaurants (SIC Code 5812).

**‘Formula Users’** means those Users who are regulated under the IWD Permit system and billed according to the City of Buellton User Charge Formula, a formula based on the measured or set strength and volume of their Wastewater discharged.

**‘Garbage’** means the putrescible animal and vegetable wastes resulting from the handling, preparation, sale and consumption of foods. See 14 CCR §17225.30.

**‘Grab Sample’** means a sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.

**‘Gravity Separation Device’** means a device designed, constructed, and operated for the purpose of retaining sand, silt, grit, mineral material, and oil by gravity-differential separation from Wastewater.

**‘Grease’** means a varied group of compounds having the common properties of immiscibility with water and a specific gravity lower than water as determined by appropriate procedures set forth in 40 C.F.R. Part 136.

**‘Grease Interceptor’ or ‘Interceptor’ or ‘Grease Trap’** means a device designed, constructed, and operated to separate and retain Grease while permitting Wastewater to be discharged into the System.

**‘Ground Garbage’** means the residue from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely in suspension under the flow conditions normally prevailing in a public Sewer, with no particle greater than

one-half inch in any dimension.

**‘Holding Tank Wastewater’** means any wastewater from holding tanks including, but not limited to, vessels, chemical toilets, campers, trailers, Septic Tanks, and vacuum-pump tank trucks.

**‘Indirect Discharge’** means the introduction of Pollutants into the System from any non-domestic source regulated under section 307(b), (c), or (d) of the Act, 33 U.S.C. §1317(b), (c) or (d).

**‘Industrial User’** means any producing, manufacturing, processing, institutional, commercial, agricultural or similar Person that discharges Wastewater, directly or indirectly, into the System, and which is solid, liquid or gaseous and contains Pollutants different from or stronger than or with constituents other than those defined for domestic Wastewater.

**‘Industrial Wastewater’** means the liquid and water-carried industrial Waste, whether treated or untreated, which is contributed into or permitted to enter the System. Industrial Wastewater includes Wastewater from sources other than an industrial plant or facility which introduces toxic Pollutants, as defined in 40 C.F.R. § 401.15, into publicly owned treatment works, including, without limitation: medical offices; dental offices; hospitals; schools; restaurants; research, education and commercial laboratories; warehouses; shopping centers; car washes; print stores; residential, commercial and public Users of pesticides and fertilizers; gas stations; and Septage collection and disposal.

**‘Industrial Wastewater Discharge Permit’ or ‘IWD Permit’** means a written conditional authorization by the City to allow a User to utilize the System for the Discharge of Industrial Wastewater.

**‘Instantaneous Maximum Discharge Limit’** means the maximum concentration of a Pollutant allowed to be discharged at any time, determined from the analysis of any discrete or Composite Sample collected, independent of the Industrial flow rate and the duration of the sampling event.

**‘Interceptor’** means a device designed, constructed, and operated to separate and retain Grease, sand or other substance harmful to the System while permitting Wastewater to be discharged into the System.

**‘Interference’** means a Discharge that, alone or in conjunction with a Discharge or Discharges from other sources, inhibits or disrupts the System, its treatment processes or operations or its biosolids processes, use or disposal; and that is therefore a cause of a violation of a provision in any applicable Waste Discharge Requirement, NPDES permit or the prevention of biosolids use or disposal in compliance with all applicable federal, State, or local regulations, including but not limited to: Section 402 of the Clean Water Act, 33 U.S.C. § 1342, the Solid Waste Disposal Act, including Title II, commonly referred to as the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §§6901 et seq.; any and all federal and State clean air acts; and the Toxic Substances Control Act, 15 U.S.C. §§ 2601-2692.

**‘Mass Emission Rate’** means the weight of material Discharged to the System during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of a particular constituent or combination of constituents.

**‘Medical Waste’** means isolation wastes, infectious agents, human blood and blood

products, pathological Wastes, sharps, body parts, contaminated bedding, surgical Wastes, potentially contaminated laboratory Wastes, and dialysis Wastes.

**‘Monitoring Facilities’** means an approved opening to a Sewer for the purpose of inspection, sampling and/or flow measurement.

**‘Municipal Wastewater System’ or ‘System’** means a "treatment works" as defined by section 212 of the Act, and includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of Wastewater (domestic or Industrial) and any conveyances which convey Wastewater to the Treatment Plant.

**‘National Pollutant Discharge Elimination System (NPDES) Permit’** means a permit issued pursuant to section 402 of the Act, 33 U.S.C. §1342.

**‘National Prohibitive Discharge Standard’ or ‘Prohibitive Discharge Standard’ or ‘Prohibitive Discharge Limits’** means any regulation developed under the authority of section 307(b) of the Act, 33 U.S.C. §1317(b), and includes limits established pursuant to 40 C.F.R. § 403.5.

**‘New Source’** means:

(a) Any building structure, facility, or installation from which there is (or may be) a Discharge of Pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act, 33 U.S.C. §1317(c), which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

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

(2) The building, structure, facility, or installation totally replaces the process or production equipment that causes the Discharge or Pollutants at an Existing Source; or

(3) The production or Wastewater generating processes of the building, structure, facility or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.

(b) Any construction on a site at which an Existing Source is located and results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subparagraphs (a)(2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this subparagraph has commenced if the owner or operator has:

(1) Begun, or caused to begin as part of a continuous on-site construction program any placement, assembly or installation of facilities or equipment; or

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

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

**'Non-contact Cooling Water'** means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

**'Pass-through'** means a Discharge that exits the System into waters of the State or the United States in quantities or concentrations which, alone or in conjunction with a Discharge or Discharges from other sources, is a cause of a violation of any requirement of an applicable Waste Discharge Requirement or a NPDES permit, including an increase in the magnitude or duration of a violation.

**'Person'** means any individual, partnership, co partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns; and including all federal, State and local governmental entities.

**'pH'** means a measure of the acidity or alkalinity of a substance, expressed in standard units.

**'Pollutant'** means dredged spoil, solid waste, incinerator residue, filter backwash, domestic Wastewater, Garbage, sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes and certain characteristics of the Wastewater (e.g., pH, temperature, TSS, turbidity, Color, BOD, COD, toxicity, or odor).

**'Pretreatment' or 'Treatment'** means the reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of Pollutant properties in Wastewater prior to, or in lieu of, introducing such Pollutants into the System, such Pretreatment or treatment accomplished by: physical, chemical, or biological processes; or by other means, except by diluting the concentration of the Pollutant unless allowed by an applicable Pretreatment Standard.

**'Pretreatment Facility'** means any works or device for the treatment or flow limitation of domestic Wastewater, liquid waste, industrial waste or Industrial Wastewater prior to Discharge into the System.

**'Pretreatment Requirements'** means any substantive or procedural requirement related to Pretreatment imposed on a User, other than a Pretreatment Standard.

**'Pretreatment Standards' or 'Standards'** means prohibited discharge standards, Categorical Pretreatment Standards, and/or local limits.

**'Private Sewer'** means a Sewer, other than a Connection, laid by a Person to serve one or more buildings, so as to connect a building(s) to a public Sewer and irrespective of whether the Sewer is constructed on public or private property.

**'Private Wastewater Disposal System'** means a Septic Tank with the effluent discharging into a subsurface disposal field, into one or more seepage pits or into a combination of subsurface disposal field and seepage pit or other Wastewater holding facilities.

**‘Prohibited Discharge Standards’ or ‘Prohibited Discharge’** means absolute prohibitions against the Discharge of certain substances.

**‘Public Works Director’** means the Public Works Director of the City or the Director’s designee.

**‘Radioactive Material’** means material containing chemical elements that spontaneously change their atomic structure by emitting any particles, rays or energy forms in excess of normal background radiation.

**‘Raw Wastewater’** means Wastewater prior to treatment or Discharge.

**‘Seepage Pit’** means a lined excavation in the ground that receives the Discharge of a Septic Tank and designed to permit the effluent from the Septic Tank to seep through its bottom and side.

**‘Septage’** means any domestic Wastewater from holding tanks such as vessels, chemical toilets, campers, trailers, and Septic Tanks.

**‘Septic Tank’** means a watertight receptacle which receives the domestic Wastewater Discharge of a building and is designed and constructed to separate solids from the liquid, digest organic matter through a period of detention and allow the liquid to Discharge into the soil outside of the tank through a system of open joint or perforated piping or a seepage pit.

**‘Settleable Solids’** means any solid that will settle out of a liquid in a specified interval of time as determined by appropriate procedures set forth in 40 C.F.R. Part 136.

**‘Sewer’** means a pipe or conduit together with appurtenances for carrying Wastewater.

**‘Significant Change’** means plus or minus 25% in an Industrial User’s typical Discharge pattern: flow rate, peak flow rate, constituents, concentration of constituents or characteristics.

**‘Significant Industrial User’** means:

- (a) A User subject to Categorical Pretreatment Standards, or
- (b) A User that:
  - (1) Discharges an average of 25,000 gpd or more of Industrial Wastewater to the System (excluding sanitary, non-contact cooling, and boiler blowdown Wastewater);
  - (2) Contributes a wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the System; or
  - (3) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the System’s operation or for violating a Pretreatment Standard or requirement.

(c) Upon a finding that a User meeting the criteria in Subsection (b) has no reasonable potential for adversely affecting the System operation or for violating any Pretreatment Standard or requirement, the City may at any time, on its own initiative or in response to a petition received from a User, and in accordance with procedures in 40 C.F.R. §403.8(f)(6), determine that such User should not be considered a Significant Industrial User.

**‘Slug Load’ or ‘Slug’** means any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge at a flow rate or concentration which could cause a violation of the prohibited Discharge standards set forth in this Title.

**‘Standard Industrial Classification (SIC)’** means a classification pursuant to the

Standard Industrial Classification Manual (latest edition) issued by the United States Office of Management and Budget.

**'Standard Methods'** means Standard Methods for the Examination of Water and Wastewater (latest edition) published by American Water Works Association, Water Environment Association, and the American Public Health Association, 1015 18th Street, NW, Washington, D.C. 20036

**'Standard Specifications'** means the current edition of standards and requirements relating to size, quantity, quality and performance, including standard drawing, as detailed and made available by the City.

**'State'** means the State of California.

**'Storm Water'** means storm water runoff and snow melt runoff.

**'Suspended Solids'** means the total suspended matter in Wastewater, as determined by the appropriate procedures set forth in 40 C.F.R. Part 136.

**'System'** or **'City's Sewer System'** means the City's Sewers.

**'Total Dissolved Solids'** means the solid matter in solution in Wastewater, as determined by the appropriate procedures set forth in 40 C.F.R. Part 136.

**'Total Toxic Organics'** means the summation of all quantifiable values greater than 0.01 milligrams per liter of the organics contained in 40 C.F.R. § 413.02.(i), incorporated herein by reference.

**'Toxic Pollutant'** means one of the Pollutants or combination of those Pollutants listed as toxic in regulations promulgated by the EPA, 40 C.F.R. §401.15, under authority of Section 307 of the Act, 33 U.S.C. §1317.

**'Uncontaminated Water'** or **'Unpolluted Water'** means any water not contaminated or polluted with sewage or other waste, the Discharge of which will not cause any violation of receiving water limitations or provision in any Waste Discharge Requirement or NPDES Permit.

**'Upset'** means an exceptional incident in which there is unintentional and temporary noncompliance with categorical and/or local Pretreatment Standards because of factors beyond the reasonable control of the Industrial User; but does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

**'User'** means a Person which discharges, or causes or permits the Discharge of any Industrial or other Discharge into the sanitary Sewer System. The term 'User' means and includes any tenant or sub-tenant under any rental, lease, or other agreement, or other Person in charge of day-to-day activities at any place where there is a Connection to the System and all such Persons are Users and jointly and severally shall be responsible for compliance with the provisions of this Title in the same manner as the owner.

**'Waste'** means sewage and any and all other water substances, liquid, solid, gaseous or radioactive substances associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for purpose of, disposal.

**'Wastewater'** means liquid and water-carried industrial wastes and domestic Wastewater from residential dwellings, commercial buildings, industrial and manufacturing facilities, and

institutions, whether treated or untreated, which are contributed directly or indirectly to the City's Sewer System.

**'Wastewater Treatment Plant' or 'Treatment Plant'** means that portion of the System designed to provide treatment of domestic and Industrial Wastewater."

#### **14.04.050 Severability**

If any title, chapter, section, subsection, sentence, clause or phrase of this Title for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Title. The city council declares that it would have adopted this Title and each chapter, section, subsection, sentence, clause and phrase hereof, irrespective of the fact that any one or more of the chapters, sections, subsections, sentences, clauses or phrases hereof be declared invalid or unconstitutional. This section shall apply to the entire Title as enacted and as subsequently amended.

#### **14.04.060 Relief on application.**

When any person is of the opinion that any provision of this Title is unjust or inequitable as applied to his property by reason of special circumstances, the person may make written application to the city council, stating the special circumstances, citing the provisions complained of, and requesting suspension or modification of that provision as applied to the person's premises. The city council, by resolution, may deny the application or suspend or modify the provision complained of, as applied to such property, to be effective as to the date of the application and continuing during the period of the special circumstances. See also § 14.24.110, Special Agreements."

**SECTION 2.** Chapter 14.08 of the Buellton Municipal Code is amended by adding new sections 14.08.011, 14.08.012, 14.08.013, 14.08.014, 14.08.015, 14.08.016, 14.08.017 and 14.08.018, to read as follows:

#### **"14.08.011 Connection to the city's sewers – General**

A No Person shall connect any private property in the City to the System without first obtaining a written Connection permit issued by the Public Works Director and paying to the City the Connection Fee and charges, as required by §§ 14.16.10 and 14.20.010 of this Title. It is unlawful for any Person to connect to, construct, install or provide, maintain and use any other means of sewage disposal from any building in the city except by connection to the City Sewer System in the manner provided in this Title.

B. The number of Connection permits required for any development shall be based upon the number of Sewer service Connections. A separate Sewer Connection is normally required for each detached building. Plans, profiles and specifications shall be submitted as

required by §§ 14.20.020 and 14.20.030 of this Title.

C. Food Establishments and commercial laundries shall have a water connection separate from other Users in the same building, unless specifically authorized by the Public Works Director.

D. The Public Works Director may impose other requirements if the Director determines that public health and safety, System protection, maintenance costs, or liability concerns so dictate.

E. In order for the City to have sufficient information to make a determination of appropriate Fees to be charged, building permit applicants shall submit Sewer service plumbing plans prepared by a registered engineer or project architect in conjunction with the building permit application for all new and replacement structures. The plumbing plans shall show all the proposed line sizes and locations.

F. Every Connection, disconnection and permanent blocking or plug made between private property and the System shall be made in the manner and with the material required by the specifications for public Sewers approved by the City and in accordance with the City's standard specifications for construction, as required by Chapter 14.16 of this Title.

#### **14.08.012 Connection to mains to be maintained by owner**

All Connections, including the lateral, wye or saddle at the City's Sewer, shall be maintained at the expense of the User of the Connection.

#### **14.08.013 Demolition and abandonment of services/premises**

The User shall disconnect or permanently block or plug Connections when further use of the property, for any purpose requiring the Connection, is abandoned or when the structure or facility on the property requiring the Connection is demolished without replacement. A public works permit for abandonment of Sewer lateral shall be required prior to commencement of abandonment. If a User or an agent of the User has failed to so effect the disconnection or blockage, the Public Works Director may disconnect or block the Connection, and the cost thereof shall be deemed a debt to the City and shall be charged to the User.

#### **14.08.014 Availability of capacity: restriction of discharge rate**

A. If System capacity is not available, the Public Works Director may restrict discharge until sufficient capacity is made available. The Public Works Director may refuse immediate service to any new facility located in an area where there is insufficient capacity in the System to accommodate the proposed quantity of the Wastewater.

B. The Public Works Director may restrict the rate of Discharge into the System during the peak flow hours (6:00 a.m. to 10:00 p.m.) or at any other time when required to prevent the overloading of the System. A Discharger so restricted shall be required either to curtail the rate of Discharge or to provide approved storage or retention facilities for the

Wastewater. Wastewater so retained may be Discharged into the System between the hours of 10:00 p.m. and 6:00 a.m., or during other periods and at a rate of flow prescribed by the Public Works Director.

#### **14.08.015 Excessive sewer maintenance expense**

Any Person who, either directly or indirectly, introduces or causes to be introduced into the System any Pollutant or Wastewater which creates a stoppage, plugging, breakage, reduction in the capacity of any portion of the System or any other damage to the System shall be liable to the City for the damage and for costs of maintenance, operation, and replacement expenses, including overhead costs, resulting from the introduction of the Pollutant. The costs resulting from the introduction of the Pollutant shall be deemed a debt to the City and shall be charged to the offending Person by the Public Works Director.

#### **14.08.016 Damage to city's municipal wastewater system: creation of other liability**

Any Person who introduces or causes to be introduced into the System, either directly or indirectly, any prohibited Pollutant or Wastewater which causes detrimental effects to the City's System or Treatment Plant processes or causes a violation of the City's' NPDES, Waste Discharge Requirements or other permit or other regulation imposed by a regulatory agency shall be liable to the City for all damages and costs occasioned thereby, including any penalty assessed against the City by any regulatory agency. The damages, costs or penalty assessed shall be deemed a debt to the City and shall be charged to the offending Person by the Public Works Director.

#### **14.08.017 Extension of system**

A. In addition to the payment of a Connection Fee, any Person requesting service to a lot that is not adjacent to the System shall be responsible for installation of a Sewer extension in dedicated streets, alleys or easements. Sewers shall be installed in Sewer easements only when it is not in the public interest for the City to accept dedication of a street or alley in the particular location. The required Sewer extension shall include all facilities necessary to serve the property as well as all unsewered properties that could feasibly be served by said extension. All construction shall conform to City standards and detailed plans shall be submitted to and, if appropriate, approved by the Public Works Director. The Public Works Director shall determine the size Sewer required for the area for which application for service is made.

B. If Sewer facilities that the Person otherwise would be required to provide have been installed previously, the Person shall be required to pay to the City a Sewer charge consisting of a pro rata share of such facilities as determined by the Public Works Director. If such previous installation was made by the Applicant or his/her predecessor in interest in the property to which service is desired, the Applicant may be entitled to credit in an amount to be determined by the Public Works Director for such installation. Previous installations eligible for

these credits must have been made not more than 20 years before the application. Credit for previous installations will be applied against Sewer charges, but in no event shall such credits be greater than the amount paid for actual construction of the extension.

C. When installed, connected and finally inspected, all Sewer extensions shall be deemed to have been offered for dedication to the City and upon acceptance by the City shall become the property of the City. All necessary easements shall be granted to the City.

#### **14.08.018 Special provision for extension of system**

A. When an application requires construction of a Sewer extension and it is necessary or desirable to design the extension to serve an area or Users, actual or potential, in excess of that for which the application is made, the Applicant may be eligible for a credit for a portion of the design and construction costs for the extension. Any such credit shall be granted in an amount to be determined by the Public Works Director.

B. If the Sewer is constructed, in part or completely by the Applicant, the Public Works Director may authorize an appropriate credit against the Applicant's Sewer Connection Fee. No Applicant may receive a credit for more than the total amount of Sewer Connection Fees that would be normally required of the Applicant. Any credit granted by the Public Works Director shall be only for the actual engineering and construction costs of the Sewer.

C. Upon completion of a Sewer to which future Connections could be made, the Public Works Director shall determine the actual cost thereof and the existing Sewer charge against each front foot of abutting property, taking into consideration intersections and other property that would not receive water service.”

**SECTION 3.** Section 14.24.030 of the Buellton Municipal Code is hereby amended by adding new sub-sections 14.24.030.R and 14.24.030.S, to read as follows:

R. No Person may add any Wastewater containing quantities or concentrations which exceed the limits set out below, as they may be amended, or in 40 C.F.R §403.5(c), as it may be amended, whichever is more stringent, for the following Pollutants:

Constituent	Concentration (mg/L)	
Ammonia	35	EPA Method 350
BOD 5 day	300	EPA Method 405.1
Suspended solids	300	EPA Method 160.2
Arsenic	0.05	
Beryllium	0.2	
Cadmium	0.1	
Chromium (T)	1.3	
Copper	1.0	
Cyanide (total)	0.2	EPA Method 335
Lead	0.9	

Mercury	.001	EPA Method 245
Nickel	1.5	
Total Toxic Organics (TTOs)	1.0	EPA Method 608, 624, 625
Phenolic compounds	0.5	EPA Method 420
Selenium	0.05	
Silver	0.5	
Sulfide (dissolved)	0.05	EPA Method 376
Zinc	5.0	

Any exceedence of any of the foregoing limits, as they may be amended, subjects the User to enforcement action. Concentration limits apply at the point of Discharge to the System or at an alternate point (or points) specifically designated by the Public Works Director. All concentrations for metallic substances are for "total" metal. At the discretion of the Public Works Director, mass limitations may be imposed on Users in addition to or in place of the concentration-based limitations on the above listed Pollutants. Compliance with all parameters may be determined from a single Grab Sample.

S. No Person may add to the System any Wastewater not treated in accordance with the federal Categorical Pretreatment Standards found at 40 C.F.R. Chapter I, Subchapter N, Parts 405-471, as they, from time to time, may be amended, and which, by this reference, are incorporated into this Title. Discharge of Wastewater not treated in accordance with the federal Categorical Pretreatment Standards shall constitute a violation of this Title.

1. Where a Categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a Pollutant in Wastewater, the Public Works Director may impose equivalent concentration or mass limits in accordance with 40 C.F.R §403.6(c), as it may be amended.

2. When Wastewater subject to a Categorical Pretreatment Standard is mixed with Wastewater not regulated by the same standard, the Public Works Director shall impose an alternate limit using the combined waste stream formula in 40 C.F.R §403.6(e), as it may be amended.

3. A User may obtain a variance from a Categorical Pretreatment Standard if the User can prove, pursuant to the procedural and substantive provisions in 40 C.F.R §403.13, that factors relating to its Discharge are fundamentally different from the factors considered by EPA when developing the Categorical Pretreatment Standard.

4. A User may obtain a net gross adjustment to a Categorical Standard in accordance with 40 C.F.R §403.15.

The City reserves the right to establish, by ordinance or in IWD Permits, more stringent standards or requirements on Discharges to the System.”

**SECTION 4.** Section 14.24.050 of the Buellton Municipal Code is hereby amended to read as follows:

**“14.24.050. Grease interceptors and gravity separating devices**

Except as noted in Section 14.24.050 A. and B., below, Grease Interceptors, oil, and sand interceptors and gravity separating devices (Separators) shall be installed by the User, at User's expense, when, in the opinion of the City's Public Works Director, they are necessary for the proper handling of the liquid wastes containing Grease or any flammable wastes, sand or other harmful ingredients. All Interceptors shall be sized using the Uniform Plumbing Code, current edition, as a guide. Interceptors must be of a capacity sufficient to provide the appropriate quality of effluent as per City standards and shall be in an easily accessible location for the purposes of cleaning and inspection. A sample box or tee installed by the User, at User's expense, is required on all Interceptors and Separators. All Interceptors and Separators shall be properly maintained by the User to ensure compliance with City requirements.

A. Not later than January 1, 2006, each Food Establishment User, including each restaurant, shall cause to be installed an approved Grease Interceptor or Grease trap or to implement alternate Grease reducing practices. The alternate Grease reducing practice to be employed shall be submitted to City for review and, if appropriate, approval. Specifications for a Grease Interceptor proposed by User shall be submitted to the City for review, and, if appropriate, approval, using the UPC as a guide.

B. Not later than January 1, 2006, the person in charge of day-to-day activities at each car wash facility, and automotive service facility (SIC Codes 5013, 5014, 5541, 7532-7534 and 7536-7539) shall cause to be installed at the facility of which that person is in charge a gravity separating device designed to prevent the Discharge of sand, silt, oil and Grease to the Sewerage System. Specifications for gravity separating devices shall be submitted to the City for review, and, if appropriate, approval, using the UPC as a guide.

C. If the City finds that a Grease Interceptor or other gravity separating device installed prior to the effective date of this Ordinance is incapable of adequately retaining the Grease, sand or oil in the Wastewater flow, the City shall notify the User, in writing, that the User shall cause to be installed an adequate interceptor or gravity separating device within a specific, reasonable time period.

D. Installation of a Grease Interceptor or gravity separating device shall not relieve the User of responsibility for keeping prohibited substances or substances above the limitations of this Title from being discharged into the Sewerage System. If the Interceptor, gravity separating device or other Pretreatment Facility is not adequate under the conditions of use, the User shall cause an adequate Interceptor or device to be installed, at User's expense, which is effective in accomplishing the intended purpose.

E. Each user required to use and maintain a Grease Interceptor or gravity separating device shall maintain a maintenance record, which shall be maintained on the User's premises and made available for inspection by City and the Regional Board upon request. This maintenance record shall include the dates of inspections and cleanouts, the name of the person who inspected and cleaned it and the disposal site of the waste.”

**SECTION 5.** Section 14.24.080 of the Buellton Municipal Code is hereby amended to read as follows:

**“14.24.080. Agreements with users; variances**

The City Council reserves the right to enter into agreements with Users, setting out terms under which a User may Discharge into the System. In no case will the City waive compliance with Pretreatment or prohibited Discharge standards or requirements. However, a User may request a net gross adjustment to a Categorical Standard in accordance with 40 C.F.R §403.15. A User may also request a variance from the Categorical Pretreatment Standard from the City in accordance with § 14.24.110. Such a request will be approved only if the User proves that factors relating to its Discharge are fundamentally different from the factors considered by EPA when establishing that Categorical Pretreatment Standard. A User requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 C.F.R §403.13 and § 14.24.110.”

**SECTION 6.** Chapter 14.24 of the Buellton Municipal Code is amended by adding new sections 14.24.100, 14.24.110, 14.24.120, 14.24.130, 14.24.140, 14.24.150, 14.24.160 and 14.24.170 to read as follows:

**“14.24.100 Control of wastewater discharges**

If Wastewater containing any substance referred to in this Chapter is Discharged or proposed to be Discharged into the Sewer System, the Public Works Director may take any action necessary to:

- A. Prohibit the Discharge of the Wastewater.
- B. Require the Discharger to demonstrate that in-plant modifications would reduce or eliminate the Discharge in conformance with prohibitions, limitations and requirements of this Title.
- C. Require Pretreatment to reduce or eliminate the objectionable or harmful nature of the Pollutants prior to their Discharge to the Sewer System.
- D. Require the Discharger to pay any additional costs incurred by the City for handling and treating the excess loads imposed on the treatment System as a result of allowing such Wastewater to enter the System.
- E. Take any other remedial action as may be deemed necessary to achieve the purpose and requirements of this Title.

**14.24.110 Variances**

- A. The City Council may grant variances from one or more of the provisions of this Title. Prior to submitting such a variance request to the City Council, the Public Works Director shall verify that in no case will the granting of a variance either (a) allow the User to exceed

applicable Categorical Pretreatment Standards or requirements or federally mandated prohibitions or (b) place the general public, Wastewater System or Wastewater System Personnel at risk of adverse health and safety effects.

B. The City Council may require the User to monitor the volumes and/or concentrations of the Discharge in excess of previously imposed levels, if the Public Works Director deems it necessary to properly enforce any variance granted under this section.

C. The City reserves the right to impose requirements that are stricter than, or in addition to, those specified under the authority of § 14.24.100 if the quantity or quality of the User's Discharge merit unique consideration by virtue of the impact of the User's Discharge on the System or public health and welfare.

D. The City Council shall have the right to revoke any variance at any time.

E. The City Council shall have the right to charge Fees and/or deposits related to the granting of a variance.

#### **14.24.120 Dilution**

No User shall modify the use of process water to dilute a Discharge, or in any other way dilute or attempt to dilute a Discharge. The Public Works Director may impose volume limitations on Users suspected of using dilution to meet applicable Pretreatment Standards or requirements, or in other cases when the imposition of volume limitations is appropriate.

#### **14.24.130 Separation of domestic and industrial wastewater**

Users shall keep all domestic Wastewater including, but not limited to, Wastewater from restrooms, showers and drinking fountains separate from Industrial Wastewater until the Industrial Wastewater has passed through any required Pretreatment system and/or monitoring facility.

#### **14.24.140 User responsibilities**

Any tenant or sub-tenant under any rental, lease, or other agreement, or other Person in charge of day-to-day activities at any place where there is a Connection to the System is a User and shall be jointly and severally responsible for compliance with the provisions of this Title in the same manner as the owner, and both owner and tenant and, if applicable, sub-tenant, or other Person in charge of day-to-day activities jointly and severally shall be liable to the City for any costs, damages, fines or penalties incurred and/or imposed by the City due to non-compliance with provisions of this Title by the tenant, sub-tenant, owner, or other Person in charge of day-to-day activities.

#### **14.24.150 Hauled wastewater**

No Person shall Discharge Wastewater, including Septage, Industrial Wastewater, and other hauled liquid wastes, into the System from a vehicle. The City Council may grant a variance to this prohibition, subject to approval, if required, by the Regional Board.

#### **14.24.160 Vandalism.**

No Person shall willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent City access to any structure, appurtenance or equipment, or other part of the System, or place any obstruction, such as, but not limited to, rocks, logs, boards, wood or other debris, in any part of the System. Any Person found in violation of any of these prohibitions shall be guilty of a misdemeanor.

#### **14.24.170 Commercial garbage grinders.**

No owner of a commercial Garbage grinder who is a User may operate any such grinder that discharges any waters, wastes or other substances into the City's Sewer System without first providing, at owner's expense, the appropriate treatment as may be necessary to reduce the Suspended Solids, daily flow or objectionable characteristics or constituents to within the limits contained in this Title."

**SECTION 7.** Title 14 of the Buellton Municipal Code is amended by adding new Chapter 14.56, "Pretreatment of Industrial Wastewater," to read as follows:

### **"Chapter 14.56**

#### **PRETREATMENT OF INDUSTRIAL WASTEWATER**

##### **Sections:**

<b>14.56.010</b>	<b>Pretreatment required</b>
<b>14.56.020</b>	<b>Additional pretreatment measurers</b>
<b>14.56.030</b>	<b>Accidental discharge/slug control plans</b>
<b>14.56.040</b>	<b>Industrial wastewater analysis</b>
<b>14.56.050</b>	<b>Review and approval of facility plans</b>
<b>14.56.060</b>	<b>Sampling station</b>
<b>14.56.070</b>	<b>Correction of defects</b>
<b>14.56.090</b>	<b>Reporting of accidental discharges</b>

#### **14.56.010 Pretreatment required.**

A. No User shall Discharge Wastewater not in compliance with the limitations of this Title to the Sewer System. Each User shall provide Wastewater Pretreatment as necessary to comply with this Title and shall achieve compliance with all Categorical Pretreatment Standards,

local limits and the prohibitions set out in this Chapter within the time limitations specified by EPA, the State, or the Public Works Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Public Works Director for review, and shall be approved by the Public Works Director before such facilities are constructed. The review of such plans and operating procedures will in no way relieve the User from the responsibility of modifying the facility as necessary to produce a Discharge in compliance with the provisions of this Chapter.

B. Pretreatment facilities shall be constructed and maintained in good working order, and operated as efficiently as possible, at the expense of the Discharger, subject to the requirements of this Title and all other applicable codes and laws.

#### **14.56.020 Additional pretreatment measures**

A. Whenever deemed necessary to protect the Wastewater System or public health and safety, the Public Works Director may require a User to restrict the User's Discharge, designate that certain Wastewater be Discharged only into specific Sewers, relocate and/or consolidate points of Discharge, separate domestic wastestreams from industrial wastestreams, and such other conditions as may be necessary to determine the User's compliance with the requirements of this Chapter.

B. The Public Works Director may require any Person discharging into the System to install and maintain, on the User's property and at the User's expense, a suitable storage and flow-control facility to ensure active management of flow. An IWD Permit may be issued solely for flow regulation.

C. A User, at User's sole expense, shall provide, install and maintain one or more Gravity Separation Devices when, in the opinion of the Public Works Director, they are necessary for the proper handling of Wastewater containing excessive amounts of oil and Grease or sand that exceed Discharge limitations set forth in this Title. All Gravity Separation Devices shall be of a type and capacity approved by the Public Works Director and shall be located so as to be easily accessible for cleaning and inspection. Such devices shall be inspected, cleaned, and repaired regularly, as needed, by the User at User's expense.

D. The Public Works Director may require any User with the potential to Discharge flammable substances to install and maintain an approved combustible gas detection meter.

#### **14.56.030 Accidental discharge/slug control plans**

A. Each Industrial User shall prevent accidental Discharge of prohibited materials or other wastes regulated by this Title. Facilities to prevent accidental Discharge of prohibited materials shall be provided and maintained at the User's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review and shall be approved by the City before construction of the facility. Review and approval of such plans and operating procedures shall not relieve the Industrial User from the

responsibility to modify his facility as necessary to meet the requirements of this Title or of any other applicable rule, regulation, order or ordinance of a governmental authority.

B. An accidental Discharge/control Slug plan shall address, at a minimum, the following:

1. Description of Discharge practices, including non-routine batch Discharges;
2. Description of stored chemicals;
3. Procedures for immediately notifying the Public Works Director of any accidental or Slug Discharge; and

4. Procedures to prevent adverse impacts from any accidental or Slug Discharge. Such procedures shall include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic Pollutants, including solvents, and/or measures and equipment for emergency response.

#### **14.56.040 Industrial Wastewater Analysis**

When requested by the Public Works Director, an Industrial User shall submit information on the nature and characteristics of its raw Wastewater within 30 days of the request, in a format prescribed by the Public Works Director.

#### **14.56.050 Review and Approval of Facility Plans.**

Prior to discharging Wastewater to the System, a User required to install Pretreatment or monitoring facilities, shall submit detailed plans to the City for review showing the Pretreatment Facility and operating procedures before construction of the facility. All such plans and construction shall be prepared at the User's expense. The City's review and approval of such plans and operating procedures will in no way relieve the User from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this Title, and the User shall remain responsible for compliance with all applicable codes, regulations and orders of any governmental authority. Any subsequent proposed changes in the Pretreatment facilities or methods of operation shall be submitted to and, if appropriate, approved by the City prior to User's implementation of the changes. Permits for facility construction are required as set forth in this Title.

#### **14.56.060 Sampling Station.**

When required by the City, a sampling station of a design and location to facilitate inspection, sampling and flow measurements, approved by the City, shall be furnished and installed by the User, at the User's expense,. Each User shall provide the City with unrestricted access to its sampling station at all times.

**14.56.070 Correction of Defects.**

When a defect results from improper installation, or installation of Sewer facilities with materials not meeting City standards, the Person responsible for the defect shall correct it at that Person's sole expense.

**14.56.090 Reporting of Accidental Discharges.**

A. Each Industrial User shall immediately notify the City of any Discharge that could cause a plant Upset or Pass-through or other problem to the POTW, including any Slug Loading or accidental Discharge. Each User shall post notices in prominent locations, such as bulletin boards, lunchrooms, and other places as appropriate, advising employees whom to call in the event of an accidental Discharge. Users shall ensure that all employees who may cause such an accidental Discharge are advised of the emergency notification procedure.

B. Any Person who causes an accidental Discharge or who discovers an uncontrolled Discharge that does not comply with this Title, shall immediately notify the City so that corrective action may be taken to protect the System.

C. In addition to the immediate notification requirements imposed by § 14.56.090.A and B, above, a User responsible for an accidental Discharge shall file a written report with the City detailing the date, time and cause of the accidental Discharge, the quantity and characteristics of the Discharge, cleanup and response actions taken and corrective action taken to prevent future Discharges. The report shall be filed with the City by the responsible Industrial User within five calendar days of the occurrence of the Discharge (40 C.F.R §403.12(f)).

D. Such notification will not relieve Users of liability for any expense, loss or damage to the Sewer System, Treatment Plant or treatment process, or for any fines imposed on the City on account thereof under Section 13350 of the California Water Code or for violations of Section 5650 of the California Fish and Game Code, or any other applicable state or federal statute or regulation.”

**SECTION 8.** Title 14 of the Buellton Municipal Code is amended by adding new Chapter 14.60, “Industrial Wastewater Discharge Permit System,” to read as follows:

**“CHAPTER 14.60****INDUSTRIAL WASTEWATER DISCHARGE PERMIT SYSTEM****Sections:**

- 14.60.010: Industrial wastewater discharge permit requirements**  
**14.60.020 Industrial wastewater discharge permitting; user connections**  
**14.60.030 Industrial wastewater discharge permitting; extrajurisdictional industrial users**

<b>14.60.040</b>	<b>Industrial wastewater discharge permit application contents</b>
<b>14.60.050</b>	<b>Industrial wastewater discharge permit application signatories and certification</b>
<b>14.60.060</b>	<b>Industrial wastewater discharge permit decisions</b>
<b>14.60.070</b>	<b>Industrial wastewater discharge permit duration</b>
<b>14.60.080</b>	<b>Industrial wastewater discharge permit contents</b>
<b>14.60.090</b>	<b>Industrial wastewater discharge permit appeals</b>
<b>14.60.100</b>	<b>Industrial wastewater discharge permit modification</b>
<b>14.60.110</b>	<b>Industrial wastewater discharge permit transfer</b>
<b>14.60.120</b>	<b>Industrial wastewater discharge permit revocation</b>
<b>14.60.130</b>	<b>Industrial wastewater discharge permit reissuance</b>
<b>14.60.140</b>	<b>continuation of expired industrial wastewater discharge permits</b>
<b>14.60.150</b>	<b>Regulation of wastewater received from other jurisdictions</b>
<b>14.60.160</b>	<b>Monitoring facilities</b>

#### **14.60.010 Industrial wastewater discharge permit requirements**

A. No Industrial User shall Discharge Wastewater, either directly or indirectly, into the System without first obtaining an Industrial Wastewater Discharge Permit (“IWD Permit”) from the Public Works Director.

B. The Public Works Director may require other Users to obtain an IWD Permit as necessary to carry out the purposes of this Title.

C. Any violation of the terms and conditions of an IWD Permit shall be deemed a violation of this Chapter, and subjects the User to the sanctions set out in Chapter 14.72. Obtaining an IWD Permit does not relieve a User of its obligation to comply with all federal and State Pretreatment Standards or requirements or with any other requirements of federal, State and local law.

#### **14.60.020 Industrial wastewater discharge permitting; user connections**

Any User required to obtain an IWD Permit that proposes to begin or recommence discharging into the System shall obtain such permit prior to beginning or recommencing such Discharge. An application for an IWD Permit, in accordance with this Chapter, shall be filed at least 90 days prior to the date upon which any Discharge will begin or recommence.

#### **14.60.030 Industrial wastewater discharge permitting; extrajurisdictional industrial users**

New Users located beyond the City limits that are required to obtain an IWD Permit shall submit a permit application to the Public Works Director at least 90 days prior to any proposed Discharge into the System. Upon review of such application, the Public Works Director may

enter into an agreement with the User that requires the User to subject itself to and abide by this Title, including all permitting, compliance monitoring, reporting, and enforcement provisions herein. Alternatively, the Public Works Director may enter into an agreement with the neighboring jurisdiction in which the User is located to provide for the implementation and enforcement of Pretreatment program requirements against the User or the Public Works Director may conclude that no such agreement with the User or the neighboring jurisdiction is warranted.

#### **14.60.040 Industrial wastewater discharge permit application contents**

Each User required to obtain an IWD Permit shall submit a permit application to the Public Works Director at least 90 days before any proposed Discharge. The Public Works Director may require any User to submit as part of an application the following information:

- A. All information required by this Title;
- B. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility that are, or could accidentally or intentionally be, Discharged to the System;
- C. Number and type of employees, hours of operation, and proposed or actual hours of operation;
- D. Each product produced by type, amount, process or processes and rate of production;
- E. Type and amount of raw materials processed (average and maximum per day);
- F. Site plans, floor plans, mechanical and plumbing plans, and details to show all Sewers, floor drains, and appurtenances by size, location, and elevation, and all points of Discharge;
- G. Time and duration of the Discharge; and
- H. Any other relevant information deemed necessary by the Public Works Director to evaluate the application.

Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

#### **14.60.050 Industrial wastewater discharge permit application signatories and certification**

Each IWD Permit application shall be signed by an Authorized Representative of the User and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a System designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the System, or those persons directly responsible for

gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

#### **14.60.060 Industrial wastewater discharge permit decisions**

The Public Works Director shall evaluate the data furnished by the User and may require additional information. Within 60 days of receipt of a complete permit application, as such is determined by the Public Works Director, the Public Works Director shall determine whether to issue an Industrial Wastewater Discharge permit and notify the User of such decision. If no decision is made during such time period, the permit application shall be deemed denied upon expiration of the 60-day period. The Public Works Director may deny any application for an Industrial Wastewater Discharge permit that is inconsistent with any of the provisions in this Title.

#### **14.60.070 Industrial wastewater discharge permit duration**

IWD Permits shall be issued for a specified time period, not to exceed five years. Each IWD Permit shall indicate a specific date of expiration.

#### **14.60.080 Industrial wastewater discharge permit contents**

A. An IWD Permit shall include such conditions that are consistent with the provisions of this Title and as are reasonably deemed necessary by the Public Works Director to prevent pass-through or Interference, protect the quality of the water body receiving the Treatment Plant's effluent, protect worker health and safety, facilitate biosolids management and reuse, and protect against damage to the System.

B. Subject to the provisions of § 14.60.080.A, above, IWD Permits shall contain:

1. A statement of the duration of the permit;
2. A statement that the permit is nontransferable without prior notification to and approval of the Public Works Director, and provisions for furnishing the new owner or operator with a copy of the existing permit;
3. Effluent limits based on applicable Pretreatment Standards;
4. Self-monitoring, sampling, reporting, notification and record-keeping requirements. These requirements shall include an identification of Pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, State and local law; and

5. A statement of applicable civil, criminal and administrative penalties for violation of Pretreatment Standards and requirements, and any applicable Compliance Schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, State or local law.

C. IWD Permits may contain additional conditions including, but not limited to, the following:

1. Limits on the average and/or maximum rate of Discharge, time of Discharge, and requirements for flow regulation and equalization;
2. Requirements for the installation of Pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of Pollutants into the System;
3. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine Discharges;
4. Development and implementation of waste minimization plans to reduce the amount of Pollutants Discharged to the System;
5. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
6. A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal and State Pretreatment Standards, including those that become effective during the term of the permit; and
7. Other conditions as deemed appropriate by the Public Works Director to ensure compliance with this Title, and State and federal laws, rules and regulations.

#### **14.60.090 Industrial wastewater discharge permit appeals**

A. Any Person, including any User, may petition the City to reconsider denial of an IWD Permit or the terms of an IWD Permit by filing a petition for reconsideration with the City Clerk, with copy to the Public Works Director, within ten days of denial or issuance of the Industrial Wastewater Discharge permit.

B. Failure to submit a timely petition for reconsideration shall be deemed to be a waiver of the administrative remedy.

C. The petition for reconsideration shall identify and address, as applicable, reasons why the IWD Permit should not have been denied, specific permit provisions objected to, and any additional or alternative conditions petitioner seeks to be included in the permit. All legal arguments and evidence, with substantiating declarations, photographs, drawings, etc., shall be included in the petition. No legal arguments or evidence not included in the petition when filed with the Clerk shall be considered by the City.

D. The conditions and provisions of the permit objected to by the User shall not be stayed pending a hearing on the petition.

E. If the City Council fails to act on the petition within 90 days, the petition shall be deemed to have been denied. Decisions not to reconsider a permit, not to issue a permit, or not to modify a permit shall be considered final and conclusive administrative actions.

F. Parties seeking judicial review of such final administrative petitions shall comply with the requirements set out in section 1094.6 of the Code of Civil Procedure.

**14.60.100 Industrial wastewater discharge permit modification**

- A. The Public Works Director may modify a permit for good cause consistent with the provisions of this Title.
- B. Good cause includes, but is not limited to, the following reasons:
1. To incorporate any new or revised federal, State or local Pretreatment Standards or requirements;
  2. To address significant alterations or additions to the User's operation, processes, or Wastewater volume or characteristic since the time of permit issuance;
  3. A change in the System that requires either a temporary or permanent reduction or elimination of the authorized Discharge;
  4. Information indicating that the permitted Discharge poses a threat to the System, City personnel, or the receiving waters;
  5. Violation of any terms or conditions of the permit;
  6. Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting;
  7. Revision of or a grant of variance from Categorical Pretreatment Standard pursuant to 40 C.F.R §403.13;
  8. To correct typographical or other errors in the permit; or
  9. To reflect transfer of the facility ownership and/or operation to a new owner/operator.

**14.60.110 Industrial wastewater discharge permit transfer**

- A. An IWD Permit may be transferred to a new User only if the permittee gives at least 30 days advance notice to the Public Works Director and the Public Works Director approves the transfer. The notice shall include a written certification by the new User that:
1. The new owner and/or operator has no immediate intent to change the facility's operations and processes;
  2. Identifies the specific date on which the transfer is to occur; and
  3. Acknowledges full responsibility for complying with the existing permit.
- B. Failure to provide advance notice of a transfer renders the permit void as of the date of facility transfer.
- C. The Public Works Director shall approve the transfer unless he/she determines that the proposed transferee is unwilling or unable to abide by the terms and conditions of the permit.

**14.60.120 Industrial wastewater discharge permit revocation**

The Public Works Director may revoke an IWD Permit for good cause consistent with the provisions of this Title, including, but not limited to, the following:

- A. Failure to notify the Public Works Director of Significant Changes to the

Wastewater prior to the changed Discharge;

- B. Failure to provide prior notification to the Public Works Director of changed conditions pursuant to this Title;
- C. Misrepresentation or failure to fully disclose all relevant facts in the permit application;
- D. Falsifying self-monitoring reports;
- E. Tampering with monitoring equipment;
- F. Refusing to allow the Public Works Director timely access to the facility premises and records;
- G. Failure to meet effluent limitations;
- H. Failure to pay fines;
- I. Failure to pay Sewer use charges;
- J. Failure to meet Compliance Schedules;
- K. Failure to complete a Wastewater survey or the permit application;
- L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- M. Violation of any Pretreatment Standard or requirement, or any terms of the permit or this Title.
- N. IWD Permits shall be voidable upon cessation of operations or transfer of business ownership. All IWD Permits issued to a particular User are void upon the issuance of a new IWD Permit to that User.

#### **14.60.130 Industrial wastewater discharge permit reissuance**

A User may apply for reissuance of the IWD Permit by submitting a complete IWD Permit application in accordance with §§ 14.60.040 and 14.60.050; such application shall be made at least 90 days prior to the expiration of the User's existing permit.

#### **14.60.140 Continuation of expired industrial wastewater discharge permits**

An expired IWD Permit will continue to be effective and enforceable until a decision is rendered as to whether to reissue the permit:

- A. The User has submitted a complete IWD Permit reissuance application at least 90 days prior to the expiration date of the User's existing permit; and
- B. The failure to reissue the IWD Permit before the expiration of the existing permit is not due to any act or failure to act on the part of the User.

#### **14.60.150 Regulation of wastewater received from other jurisdictions**

A. If another legal jurisdiction outside the City (an "Outside Contributing Entity"), or User located within another legal jurisdiction outside the System, contributes Wastewater to the System, the Public Works Director may enter into an agreement for Wastewater services with the

Outside Contributing Entity or User pursuant to this Title.

B. Prior to entering into an agreement as provided by § 14.60.150.A, above, the Public Works Director shall request the following information from the Outside Contributing Entity:

1. A description of the quality and volume of Wastewater Discharged to the System by the Outside Contributing Entity;
2. An inventory of all Users within the Outside Contributing Entity that are Dischargers to the System; and
3. Any other information as the Public Works Director may deem necessary.

C. The agreement, as required by § 14.60.150.A, above, shall contain the following conditions:

1. A requirement for the Outside Contributing Entity to adopt Sewer use legislation which is at least as stringent as this Title and local limits that are at least as stringent as those established under authority of this Title. The requirement shall specify that such legislation and limits must be revised as necessary to reflect changes made to this Chapter or local limits;
2. A requirement for the Outside Contributing Entity to submit a revised User inventory on at least an annual basis;
3. A provision specifying which Pretreatment implementation activities, including IWD Permit issuance, inspection and sampling, and enforcement will be conducted by the contributing entity; which of these will be conducted by the Public Works Director; and which of these activities will be conducted jointly by the Outside Contributing Entity and the Public Works Director;
4. A requirement for the Outside Contributing Entity to provide the Public Works Director with access to all information that the Outside Contributing Entity obtains as part of its Pretreatment activities;
5. Limits on the nature, quality, and volume of the Outside Contributing Entity 's Wastewater at the point where it Discharges to the System;
6. Requirements for monitoring the Outside Contributing Entity 's Discharge;
7. A provision ensuring the Public Works Director access to the facilities of Users located in the Outside Contributing Entity 's jurisdictional boundaries for the purpose of inspecting, sampling, and any other duties deemed necessary by the Public Works Director; and
8. A provision specifying remedies for breach of the terms of the agreement.

#### **14.60.160 Monitoring facilities**

A. Each User required to obtain an IWD Permit shall furnish, install and properly maintain a monitoring facility for Wastewater sampling. This monitoring facility shall be of a design or configuration approved by the Public Works Director, who may require Wastewater flow measurement equipment, automatic flow-proportional sampling equipment and automatic Wastewater analysis and data recording equipment.

B. Each User, as a part of its application for obtaining an IWD Permit, shall propose a suitable location and design for the Wastewater monitoring facility. The monitoring facility

shall be located so as to be safe and accessible to City employees, and shall be constructed in accordance with the City's requirements, and all applicable local building codes and other local construction requirements. The User's proposal for a Wastewater monitoring facility shall comply with the City's design requirements and shall be reviewed and, if satisfactory, shall be approved by the Public Works Director.

C. The User's Wastewater sampling analysis and flow measurement procedures, equipment, and results shall be subject to inspection by the Public Works Director at any time. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times by the User.

D. Failure of a User to keep approved Wastewater monitoring facilities clean and in good working order shall not be grounds for the User to claim that any sample results are unrepresentative of the User's Wastewater. Flow measurement systems shall be regularly maintained and calibrated in accordance with guidelines established by the Public Works Director and the manufacturer.”

**SECTION 9.** Title 14 of the Buellton Municipal Code is hereby amended by adding new Chapter 14.64, “Industrial Wastewater Reporting Requirements,” to read as follows:

#### **“CHAPTER 14.64**

#### **INDUSTRIAL WASTEWATER REPORTING REQUIREMENTS**

**Sections:**

<b>14.64.010</b>	<b>Baseline monitoring reports</b>
<b>14.64.020</b>	<b>Compliance schedules</b>
<b>14.64.030</b>	<b>Report on compliance with categorical pretreatment standard deadline</b>
<b>14.64.040</b>	<b>Periodic compliance reports</b>
<b>14.64.050</b>	<b>Report of changed conditions</b>
<b>14.64.060</b>	<b>Reports of potential problems</b>
<b>14.64.070</b>	<b>Reports from unpermitted users</b>
<b>14.64.080</b>	<b>Notice of violation; repeat sampling and reporting</b>
<b>14.64.090</b>	<b>Analytical requirements</b>
<b>14.64.100</b>	<b>Sample collection</b>
<b>14.64.110</b>	<b>Timing</b>
<b>14.64.120</b>	<b>Record keeping</b>
<b>14.64.130</b>	<b>Right of entry; inspection and sampling</b>

**14.64.010 Baseline monitoring reports**

A. Within either 180 days after the effective date of a Categorical Pretreatment Standard by an agency with the appropriate jurisdiction and authority to adopt Categorical

Pretreatment Standards, or within 180 days after the final administrative decision on a category determination under 40 C.F.R §403.6(a)(4), whichever is later, each Categorical User currently discharging to or scheduled to Discharge to the System shall submit to the Public Works Director a report which contains the information listed in § 14.64.010.C, below.

B. At least 90 days prior to commencement of their Discharge, new sources, and sources that become Categorical Users subsequent to the promulgation of an applicable Categorical Standard, shall submit to the Public Works Director a report which contains the information listed in § 14.60.010.C, below. A new source shall report the method of Pretreatment it intends to use to meet applicable Categorical Standards. A new source shall also give estimates of its anticipated flow and quantity of Pollutants Discharged.

C. Users described above shall submit the following information:

1. The name and address of the facility, including the name of the operator and owner;
2. A list of any environmental control permits held by or for the facility;
3. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by the User. This description should include a schematic process diagram that indicates points of Discharge to the System from the regulated processes.
4. Information showing the measured average daily and maximum daily flow, in gallons per day, to the System from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 C.F.R §403.6(e).
5. The Categorical Pretreatment Standards applicable to each regulated process.
6. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or the Public Works Director, of regulated Pollutants in the Discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.
7. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 14.64.090 of this Chapter. Sampling shall be performed in accordance with procedures set out in § 14.64.100 of this Chapter.
8. A statement, reviewed by the User's authorized representative and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance ("O & M") and/or additional Pretreatment is required to meet the Pretreatment Standards and requirements.
9. If additional Pretreatment and/or O & M will be required to meet the Pretreatment Standards, the User shall provide the Public Works Director with the shortest schedule by which the User shall complete such additional Pretreatment and/or O & M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A Compliance Schedule pursuant to this section must meet the requirements set out in § 14.64.020 of this Chapter.
10. Any other relevant information requested by the Public Works Director.
11. Signed and certified baseline monitoring reports in accordance with this Chapter.

**14.64.020 Compliance schedules**

Compliance schedules shall meet the following requirements::

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

B. No increment required by § 14.64.020, above, shall exceed nine months;

C. The User shall submit a progress report to the Public Works Director no later than 14 days following each date in the schedule and the final date of compliance including, at a minimum, whether User complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and

D. In no event shall more than nine months elapse between the progress reports to the Public Works Director required by § 14.64.01.C, above.

**14.64.030 Report on compliance with categorical pretreatment standard deadline**

Within 90 days following the date for final compliance with applicable Categorical Pretreatment Standards, or in the case of a new source, following commencement of the introduction of Wastewater into the System, any User subject to such Pretreatment Standards and requirements shall submit to the Public Works Director a report containing the information described in Section 14.64.040. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 C.F.R §403.6(c), this report shall contain a reasonable measure of the User's long-term production rate. For all other Users subject to Categorical Pretreatment Standards expressed in terms of allowable Pollutant Discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 14.60.050 of this Chapter.

**14.64.040 Periodic compliance reports**

A. All Significant Industrial Users, at a frequency determined by the Public Works Director but in no case less than twice per year (in June and December), shall submit a report indicating the nature and concentration of Pollutants in the Discharge that are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with section 14.60.050 of this Chapter.

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

unrepresentative of its Discharge.

C.If a User, subject to the reporting requirement in this section, monitors any Pollutant more frequently than required by the Public Works Director, using the procedures prescribed in section 14.64.010of this Chapter, the results of this monitoring shall be included in the report sent to the Public Works Director

#### **14.64.050 Report of changed conditions**

A. Each User shall notify the Public Works Director of any planned Significant Changes to the User's operations or system which might alter the nature, quality or volume of its Wastewater at least 30 days before the change.

B. The Public Works Director may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of an IWD Permit application under sections 14.60.010 or 14.60.030 of this Chapter, if necessary.

C. The Public Works Director may issue an IWD Permit under section 14.60.060 of this Chapter, or modify an existing IWD Permit under section 14.60.100 of this Chapter in response to changed conditions or anticipated changed conditions.

D. For purposes of this section, Significant Changes include, but are not limited to, flow increases of 25% or greater, and the Discharge of any previously unreported Pollutants.

#### **14.64.060 Reports of potential problems**

A. In the case of any Discharge, including, but not limited to, accidental Discharges, Discharges of a non-routine, episodic nature, a non-customary batch Discharge, or a Slug Load, which may cause potential problems for the System, the User shall immediately telephone and notify the Public Works Director of the incident. This notification shall include the location of the Discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.

B. Within five days following such Discharge, the User shall, unless this requirement is waived by the Public Works Director, submit a detailed written report describing the cause of the Discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability that may be incurred as a result of damage to the System, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability that may be imposed by this Chapter or any other applicable provision of federal, State or local law.

C. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees whom to call in the event of a Discharge described in § 14.64.060.A, above. Employers shall ensure that all employees, who may cause such a Discharge to occur are advised of the emergency notification procedure.

#### **14.64.070 Reports from unpermitted users**

All Users not required to obtain an IWD Permit shall provide appropriate reports as the Public Works Director may require.

#### **14.64.080 Notice of violation; repeat sampling and reporting**

If User's sampling indicates a violation, the User shall notify the Public Works Director within 24 hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Public Works Director within 30 days after becoming aware of the violation. The User is not required to resample if the Public Works Director conducts monitoring at User's facility at least once a month, or if the Public Works Director samples between the User's initial sampling and when the User receives the results of this sampling.

#### **14.64.090 Analytical requirements**

All Pollutant analyses, including sampling techniques, to be submitted as part of an IWD Permit application or report shall be performed in accordance with the techniques prescribed in 40 C.F.R. Part 136, unless otherwise specified in an applicable Categorical Pretreatment Standard. If 40 C.F.R. Part 136 does not contain sampling or analytical techniques for the Pollutant in question, sampling and analyses shall be performed in accordance with procedures approved by the EPA.

#### **14.64.100 Sample collection**

A. Except as indicated in subsection 14.64.100.B, below, the User shall collect Wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Public Works Director may authorize the use of time proportional sampling or a minimum of four Grab Samples where the User demonstrates to the satisfaction of the Public Works Director that this will provide a representative sample of the effluent being Discharged. In addition, Grab Samples may be required to show compliance with instantaneous Discharge limits.

B. Samples for oil and Grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds shall be obtained using grab collection techniques.

#### **14.64.110 Timing**

Written reports, applications, notices, and all mailings shall be deemed to have been submitted on the date postmarked. For reports that are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

#### **14.64.120 Record keeping**

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

#### **14.64.130 Right of entry; inspection and sampling**

A. The Public Works Director or the Director's designee shall have the right to enter the premises of any User to determine whether the User is complying with the requirement of this Title and any IWD Permit or order issued hereunder. Users shall allow the Public Works Director or the Director's designee ready access to all parts of the premises for the purposes of inspecting, sampling, examining and copying records, and performing of any additional duties.

B. Where a User has security measures in force that require proper identification and clearance before entry into User's premises, the User shall make necessary arrangements with User's security guards so that, upon presentation of suitable identification, the Public Works Director or the Director's designee shall be permitted to enter, without delay, for the purposes of performing specific responsibilities.

C. The Public Works Director or the Director's designee shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operation.

D. The Public Works Director may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at User's sole expense. All devices used to measure Wastewater flow shall be electronically calibrated at least every six months and hydraulically calibrated at least every five years to ensure their accuracy.

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

F. Refusal of access or unreasonable delays in allowing the Public Works Director or the Director's designee access to the User's premises shall be a violation of this Title. The Public Works Director may give notice of inspections at the Public Works Directors discretion, but unannounced inspections are an important part of the City's enforcement program, and Users shall have no right to advance notice of any City inspections."

**SECTION 10.** Title 14 of the Buellton Municipal Code is hereby amended by adding new Chapter 14.68, "Industrial Wastewater Compliance Monitoring," to read as follows:

**“CHAPTER 14.68**

**INDUSTRIAL WASTEWATER COMPLIANCE MONITORING**

**Sections:**

- 14.68.010      Inspection; search warrants**
- 14.68.020      Confidential information**
- 14.68.030      Publication of significant violators**
- 14.68.040      Notification of violation**

**14.68.010      Inspection; search warrants**

If the Public Works Director or the Director's designee has been refused access to a building, structure or property, or any part thereof, in violation of this Title and/or any IWD Permit, the City Attorney may seek issuance of an inspection or search warrant from a court in addition to pursuing any other remedies available to the City provided by federal, State or local law.

**14.68.020      Confidential information**

A. Information and data on a User obtained from reports, surveys, IWD Permit applications, IWD Permits and monitoring programs, and from the Public Works Director's or the Director's designee's inspection and sampling activities, shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of the Public Works Director, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable federal and State law. Any such request must be asserted by the User at the time of submission of the information or data.

B. Upon request and demonstration by the User that information or data should be held confidential, the portions of such report containing the confidential information or data shall not be made available to the public for inspection. The entire report, including confidential information and data, shall be made available to governmental agencies for uses related to the Waste Discharge Requirements or NPDES program, Pretreatment program enforcement proceedings or any other permitted action in accordance with applicable federal and State law.

**14.68.030      Publication of significant violators**

A. The Public Works Director shall publish annually, in the daily newspaper with the largest circulation published in the area where the System is located, a list of the Users that,

during the previous 12 months, were in significant noncompliance with applicable Pretreatment Standards and requirements.

B. The term "significant noncompliance" shall mean:

1. Chronic violations of Wastewater Discharge limits, defined as those in which 66% or more of Wastewater measurements taken during a six month period exceed the daily maximum limit or average limit for the same Pollutant parameter by any amount;

2. Technical review criteria violations, defined as those in which 33% or more of Wastewater measurements taken for each Pollutant parameter during a six month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, oil and Grease, and 1.2 for all other Pollutants except pH);

3. Any other Discharge violation that the Public Works Director believes has caused, alone or in combination with other Discharges, Interference or pass-through, and/or endangered the health, safety and welfare of City personnel or the general public;

4. Any Discharge of Pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the City's exercise of its emergency authority to halt or prevent such a Discharge;

5. Failure, within 90 days of the scheduled date, to meet a Compliance Schedule milestone contained in an IWD Permit or enforcement order for starting construction, completing construction, or attaining final compliance;

6. Failure, within 30 days after the due date, to provide any required reports, including baseline monitoring reports, reports on compliance with Categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with Compliance Schedules;

7. Failure to report noncompliance accurately; or

8. Any other violation that the Public Works Director determines will adversely affect the operation or implementation of the City's Wastewater management program.

#### **14.68.040 Notification of violation**

A. When the Public Works Director finds that a User has violated, or continues to violate, any provision of this Title, an IWD Permit or order issued hereunder, or any Pretreatment Standard or requirement, the Public Works Director may serve upon that User a written notice of violation.

B. Within ten calendar days of the service of such notice, the User shall submit to the Public Works Director an explanation of the violation and a plan for the satisfactory correction and prevention thereof, including specific required actions. Submission of this plan in no way relieves the User of liability for any violations occurring before or after receipt of the notice of violation.

C. Nothing in this section shall limit the authority of the Public Works Director to take any action, including emergency action or any other enforcement action, without first issuing a notice of violation."

**SECTION 11.** Title 14 of the Buellton Municipal Code is hereby amended by adding new Chapter 14.72, “Administrative Enforcement Remedies,” to read as follows:

**“CHAPTER 14.72  
ADMINISTRATIVE ENFORCEMENT REMEDIES**

**Sections:**

<b>14.72.010</b>	<b>Consent orders</b>
<b>14.72.020</b>	<b>Order to show cause</b>
<b>14.72.030</b>	<b>Administrative compliance orders</b>
<b>14.72.040</b>	<b>Cease and desist orders</b>
<b>14.72.050</b>	<b>Administrative fines</b>
<b>14.72.060</b>	<b>Emergency suspensions</b>
<b>14.72.070</b>	<b>Termination of discharge</b>
<b>14.72.080</b>	<b>Appeal</b>
<b>14.72.090</b>	<b>Injunctive relief</b>

**14.72.010 Consent orders**

The Public Works Director may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any User responsible for the noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to sections 14.72.030 and 14.72.040 of this Chapter.

**14.72.020 Order to show cause**

A. The Public Works Director may order a User that has violated, or continues to violate, any provision of this Title, an IWD Permit or an order issued hereunder, or any other Pretreatment Standard or requirement, to appear before the Public Works Director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User, specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken.

B. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the meeting. Such notice may be served on any Authorized Representative of the User. An order to show cause shall not be a bar against, or prerequisite for, taking any other action against the User.

**14.72.030 Administrative compliance orders**

A. When the Public Works Director finds that a User has violated, or continues to violate, any provision of this Title, an IWD Permit or an order issued hereunder, or any other Pretreatment Standard or requirement, the Public Works Director may issue an order to the User responsible for the Discharge, directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, Sewer service may be discontinued until such time as the conditions of the administrative order have been satisfied.

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

#### **14.72.040 Cease and desist orders**

A. When the Public Works Director finds that a User has violated, or continues to violate, any provision of this Title, an IWD Permit or order issued hereunder, or any Pretreatment Standard or requirements, or that the User's past violations are likely to recur, the Public Works Director may issue an order to the User directing the User to cease and desist all such violations and directing the User to:

B. Immediately comply with all applicable requirements; and

C. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the Discharge.

D. Issuance of a cease-and-desist order shall not be a bar against, or a prerequisite for, the taking of any other against the User.

#### **14.72.050 Administrative fines**

A. When the Public Works Director finds that a User has violated, or continues to violate, any provision of this Title, an IWD Permit or an order issued hereunder, or any Pretreatment Standard or requirement, the Public Works Director may issue an administrative complaint alleging the act or failure to act that constitutes the violation, the provisions of law authorizing imposition of the administrative fine, and the proposed administrative fine.

B. The administrative complaint shall be served by personal delivery or certified mail on the User and shall inform the User that a hearing shall be conducted within 60 days after the User has been served. The hearing officer shall be the Public Works Director or the Director's designee. The User may waive the right to a hearing, in which case the hearing officer shall not conduct the hearing and decide the matter based upon the administrative complaint.

C. The Public Works Director may impose administrative fines as follows:

1. In an amount not to exceed \$2,000 per day for failing or refusing to furnish a self-monitoring report or any other technical report required by this Title;

2. In an amount not to exceed \$3,000 per day for failing or refusing to timely comply with any Compliance Schedule order by the Public Works Director;

3. In an amount not to exceed \$5,000 per violation per day for Discharges in

violation of Discharge standards or limits, permit conditions, or prohibitions issued, reissued, or adopted by the Public Works Director; and

4. In an amount not to exceed ten dollars per gallon for Discharges in violation of any suspension, cease-and-desist order or other orders, or prohibitions issued, reissued, or adopted by the Public Works Director.

D. The amount of any administrative fine imposed under this section, which remains delinquent for a period of 60 days or more, shall accrue interest at a standard rate of ten percent per year. Further, the amount of any administrative fine and interest accrued that remains delinquent after 60 days shall constitute a lien against the real property of the User from which the Discharge originated.

E. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action, whether criminal or civil, against the User.

#### **14.72.060 Emergency suspensions**

A. The Public Works Director may immediately suspend a User's permission to Discharge into the System, whenever such suspension is necessary to stop an actual or threatened Discharge that could or does cause an imminent or substantial endangerment to the operation of the System, to the environment or the public health, safety or welfare. The Public Works Director may also immediately suspend a User's Discharge, after the User is given notice and opportunity to respond, that threatens to interfere with the operation of the System, or that presents, or may present, an endangerment to the environment or the public health, safety or welfare.

B. Any User notified of the suspension of the User's permission to Discharge into the System shall immediately halt Discharge into the System. In the event any User fails to immediately comply voluntarily with the suspension order, the Public Works Director may take such steps as deemed necessary, including immediate severance of the Sewer Connection, to prevent or minimize damage to the System, the receiving waters, to the environment or the public health, safety or welfare. The Public Works Director may allow the User to recommence Discharge when the User has demonstrated to the satisfaction of the Public Works Director that the threat of endangerment has passed, unless the termination proceedings set forth in this Chapter are initiated against the User.

C. A User that is responsible, in whole or in part, for any Discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful or potentially harmful Discharge and the measures taken to prevent any such future occurrence, to the Public Works Director before the date of any order to show cause or termination hearing under sections 14.72.020 and 14.72.040 of this Chapter.

D. Nothing in this section shall be interpreted as requiring any hearing before issuance of any suspension order and the taking of any action permitted under this section.

#### **14.72.070 Termination of discharge**

A. In addition to all other remedies available under this Title, federal, State and local law, the Public Works Director may terminate any User's permission to Discharge into the System if the User does any of the following acts:

1. Violates IWD Permit conditions;
2. Fails to accurately report the Wastewater constituents and characteristics of the User's Discharge;
3. Fails to report Significant Changes in operations or Wastewater volume, constituents and characteristics prior to Discharge;
4. Refuses reasonable access to the User's premises for the purpose of inspection, monitoring or sampling; or
5. Violates the Pretreatment Standards in this Chapter.

B. Any User violating the provisions in section 14.72.040 will be notified of the proposed termination of the User's permission to Discharge into the System and be offered an opportunity to show cause under section 14.72.020 of this Chapter why the proposed action should not be taken. Exercise of this option by the Public Works Director shall not be a bar to, or a prerequisite for, taking any action, whether criminal or civil, against the User.

#### **14.72.080 Appeals**

Except for actions taken pursuant to section 14.72.060, all actions taken by the Public Works Director or the Director's designee pursuant to this Title may be appealed to the City Council in accordance with Chapter 1.24 Administrative Appeals and Judicial Review of this Code. Any appeal to the City Council shall include all legal arguments and factual evidence. The action of the City Council on any appeal, shall be deemed the final and conclusive action of the City. In the event of a tie vote of the City Council, the action of the Public Works Director shall be deemed to have been upheld.

#### **14.72.090 Injunctive relief**

A. When the Public Works Director finds that a User has violated, or continues to violate, any provision of this Title, an IWD Permit, or an order issued hereunder, or any other Pretreatment Standard or requirement, the Public Works Director, through the City attorney, may petition the Superior Court of the County of Santa Barbara for the issuance of a temporary or permanent injunction, as appropriate, that restrains or compels the specific performance of the conditions/requirements of an IWD Permit, order, or other requirement imposed by this Title on activities of the User.

B. The City may also seek other appropriate legal and/or equitable relief; including an order for the User to perform environmental remediation. A petition for injunctive relief shall not be a bar against, or prerequisite for, the taking of any action, whether criminal, civil, or administrative against a User.”

**SECTION 12.** Title 14. The “Sewer Code” of the Buellton Municipal Code is hereby amended by adding new Chapter 14.76, “Judicial Enforcement Remedies,” to read as follows:

**“CHAPTER 14.76**

**ENFORCEMENT REMEDIES**

**Sections:**

<b>14.76.010</b>	<b>Civil penalties</b>
<b>14.76.020</b>	<b>Criminal prosecution</b>
<b>14.76.030</b>	<b>Remedies nonexclusive</b>

**14.76.010 Civil penalties**

A. A User that has violated, or continues to violate, any provision of this Title, an IWD Permit, or an order issued hereunder, or any other Pretreatment Standard or requirement may be liable to the City for a maximum civil penalty of \$10,000 per violation per day.

B. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking other enforcement action, whether criminal, civil or administrative, against a User.

**14.76.020 Criminal prosecution**

A. A User that willfully or negligently violates any provision of this Title, an IWD Permit or an order issued hereunder, or any Pretreatment Standard or requirement shall, upon conviction, be guilty of a misdemeanor.

B. A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other documentation filed, or required to be maintained, pursuant to this Title, an IWD Permit, or an order issued hereunder, or that falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Title shall, upon conviction, be guilty of a misdemeanor.

**14.76.030 Remedies nonexclusive**

The provisions in this Title are not exclusive remedies. The City may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the City may take other action against any User when the circumstances warrant. Further, the City may take more than one enforcement action against any noncompliant User.”

**SECTION 13.** The City Council finds that the requirements and provisions set forth in this Ordinance are categorically exempt from the requirements of the California Environmental Quality Act (“CEQA”), Public Resources Code sections 21000 et seq., the State CEQA

Guidelines, 14 California Code of Regulations sections 15000 et seq., and the CEQA Guidelines of the City of Buellton pursuant to CEQA Guidelines Section 15308 as a regulatory process involving procedures for the protection of the environment.

**SECTION 14.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION 15.** The City Clerk shall certify as to the adoption of this Ordinance and shall cause the same to be published within fifteen (15) days of the adoption and shall post a certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

**PASSED, APPROVED, AND ADOPTED** this 22<sup>nd</sup> day of May, 2003.

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Victoria Pointer, Mayor

**ATTEST:**

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Birgit Hansen Cripe, CMC  
City Clerk

