



AGENDA
REGULAR CITY COUNCIL MEETING AND JOINT MEETING OF THE CITY
COUNCIL AND THE BOARD OF DIRECTORS OF THE COMMUNITY
REDEVELOPMENT AGENCY OF THE CITY OF COTATI
OF THE CITY OF COTATI
WEDNESDAY NOVEMBER 25, 2009
7:00 PM REGULAR SESSION

The Cotati City Council welcomes you to its meetings that are generally scheduled for the 2nd and 4th Wednesday (or as otherwise noticed) of every month. Your interest and participation are encouraged and appreciated.

City Council meeting agendas, minutes and audio recordings (podcast) are posted on the City's website at www.ci.cotati.ca.us

To receive the City Council Agenda by e-mail, provide your e-mail address to the City Manager's office, or e-mail your request to the Deputy City Clerk at ttaylor@ci.cotati.ca.us

Notice is hereby given that Council may discuss and/or take action on any or all of the items listed on this agenda.

Any writings or documents provided to a majority of the Cotati City Council regarding any item on this agenda will be made available for public inspection in the City Manager's office located at 201 West Sierra Avenue, Cotati, California, during normal business hours.

Disabled Accommodation: Upon request, this agenda will be made available in appropriate formats to persons with disabilities as required by Section 202 of the Americans with Disabilities Act of 1990. Any person with a disability who requires a modification or accommodation in order to participate in a meeting should contact the Deputy City Clerk at (707) 665-3622 at least 48 hours in advance of the meeting.

Waiver Warning: If you challenge decisions/direction of the City Council of the City of Cotati in court, you may be limited to raising only those issues you or someone else raised at public hearing(s) described in this Agenda, or in written correspondence delivered to the City of Cotati at, or prior to, the public hearing(s).

Those wishing to address the Council are asked to sign the speaker's sign-up sheet and limit discussion to one presentation per individual and to keep comments to between 3 and 5 minutes as the Mayor directs; when you are called, step to the podium and state your name and address for the record. Persons wishing to address the Council are not required to identify themselves (Gov't. Code § 54953.3); however, this information assists the Mayor by ensuring that all persons wishing to address the Council are recognized and it assists the Deputy City Clerk in preparing the City Council meeting minutes.

7:00 PM

CALL TO ORDER OF REGULAR CITY COUNCIL MEETING

ROLL CALL

PLEDGE OF ALLEGIANCE

- 1. APPROVAL OF MINUTES OF OCTOBER 28, 2009 REGULAR MEETING AND NOTICE OF WAIVING OF READING OF ALL RESOLUTIONS AND ORDINANCES INTRODUCED AND/OR ADOPTED UNDER THIS AGENDA (*Action*)**

2. DECLARATION OF RESULTS OF GENERAL MUNICIPAL ELECTION AND SWEARING IN OF NEW COUNCILMEMBER

RECEIVE AND FILE OFFICIAL STATEMENT OF VOTES CAST FOR THE NOVEMBER 17, 2009 SPECIAL MUNICIPAL RECALL ELECTION (City Manager) (Action)

It is recommended that the City Council: 1) Adopt a motion to receive and file the Sonoma County Clerk's Statement of the Votes Cast at the City of Cotati Special Recall Election held on November 17, 2009; and 2) adopt a resolution declaring the results of the Special Municipal Recall election held on November 17, 2009.

ADMINISTRATION OF OATH OF OFFICE TO NEW COUNCILMEMBER AND PRESENTATION OF CERTIFICATE OF ELECTION

The Deputy City Clerk will administer the oath of office and present the certificate of election to the newly elected Councilmember.

ANNOUNCEMENTS

Cotati Creek Critters will hold Creek Stewardship days on the second Saturday and the last Sunday of every month from October to May. The Cotati Creek Critters also hosts the Inside/Outside Nature Education Series. Contact the Cotati Creek Critters by phone at 792-4422 or on the web at CotatiCreekCritters.info for details on these programs.

HONORARY MAYOR

Honorary Mayor Joseph Pearson of Rancho Cotate High School will provide a verbal report to Council.

SONOMA STATE UNIVERSITY REPRESENTATIVE REPORT

Sonoma State University Student representative Jesse Schwartz will provide a verbal report to Council.

CITY MANAGER'S REPORT

APPROVAL OF FINAL AGENDA

CITIZEN BUSINESS

Any item raised by a member of the public which is not listed on the agenda but may require Council action shall be automatically referred to City staff for investigation and disposition unless the item requires action to be taken by the Council at the meeting during which it was raised and constitutes an emergency, or the need to take such action arose after the posting of the agendas within the meaning of Government Code Section 54954.2(b). In either event, the Council is entitled to discuss the matter before making the determination required under said Government Code provision, and if either finding is made may take action thereon. Please confine your comments during this portion of the agenda to matters not already on the agenda. The public will be given an opportunity to speak on each agendized item at the time it is called.

DIRECTION ON FUTURE AGENDA ITEMS

CONSENT CALENDAR

3. AMENDMENT OF COTATI MUNICIPAL CODE TITLE 13, PART II (SEWERS) (Public Works/Engineering) (Action)

It is recommended that the City Council adopt an ordinance repealing, reenacting and amending certain portions of Cotati City Code Title 13, Part II - Sewers.

REGULAR AGENDA

4. REQUEST FOR SUPPORT FOR THE LEAGUE OF CALIFORNIA CITIES' INITIATIVE KNOWN AS THE LOCAL TAXPAYER, PUBLIC SAFETY AND TRANSPORTATION PROTECTION ACT OF 2010 (City Manager) (Action)

It is recommended that the Council adopt a resolution in support for the League of California Cities' Initiative known as the Local Taxpayer, Public Safety and Transportation Protection Act of 2010.

ADJOURNMENT OF REGULAR MEETING OF THE CITY COUNCIL AND CALL TO ORDER OF JOINT MEETING OF CITY COUNCIL AND COMMUNITY REDEVELOPMENT AGENCY BOARD OF DIRECTORS

CONSENT CALENDAR

5. WARRANTS AND AUDITED CLAIMS (Administrative Services) (Action)

This motion receives and files warrants and audited claims for October 29th, 2009 – November 12th, 2009.

ADJOURNMENT OF JOINT MEETING; RECONVENING OF REGULAR MEETING OF CITY COUNCIL

6. CORRESPONDENCE AND PENDING LEGISLATION (Discussion and possible Action)

None submitted.

CITY COUNCIL REPORTS (Discussion)

ADJOURNMENT

Certification of Posting of the Agenda: I declare under penalty of perjury that I am employed by the City of Cotati and that I posted this agenda on the bulletin boards of City Hall, Veterans' Memorial Building and the U.S. Post Office on or before November 20, 2009

/s/ Tamara Taylor, Deputy City Clerk

2nd DRAFT

Subject to approval.



**MINUTES
SPECIAL CITY COUNCIL MEETING AND JOINT MEETING OF THE CITY
COUNCIL AND THE BOARD OF DIRECTORS OF THE COMMUNITY
REDEVELOPMENT AGENCY OF THE CITY OF COTATI
OF THE CITY OF COTATI
TUESDAY NOVEMBER 10, 2009
6:00 PM CLOSED SESSION
7:00 PM REGULAR SESSION**

6:00 PM CLOSED SESSION

**CONFERENCE WITH LEGAL COUNSEL-EXISTING LITIGATION (Government Code
Section 54956.9(a))**

City of Cotati vs. Gilman Ranch, LLC et. al (Sonoma County Superior Court Case # 244542)

7:00 PM

CALL TO ORDER OF SPECIAL CITY COUNCIL MEETING

Vice Mayor Coleman-Senghor called the meeting to order at 7:00 p.m.

ROLL CALL

Councilmembers present: Councilmembers Barich, Gilardi, Orchard and Vice Mayor Coleman-Senghor.

Staff present: Administrative Services Director Jone Hayes, Assistant to the City Manager/Acting Community Development Director Marsha Sue Lustig, Director of Public Works/City Engineer Damien O'Bid, City Attorney Rich Rudnansky, Chief of Police Robert Stewart, Deputy City Clerk Tamara Taylor, City Manager Dianne Thompson.

PLEDGE OF ALLEGIANCE

Councilmember Orchard led the pledge of allegiance.

Vice Mayor Coleman-Senghor wished the Marine Corp happy birthday and recognized the nation's veterans in honor of Veterans' Day. He announced that there was nothing to report out of closed session.

**1. APPROVAL OF MINUTES OF OCTOBER 28, 2009 REGULAR MEETING AND NOTICE
OF WAIVING OF READING OF ALL RESOLUTIONS AND ORDINANCES
INTRODUCED AND/OR ADOPTED UNDER THIS AGENDA (Action)**

Moved by Councilmember Barich seconded by Councilmember Gilardi and passed 4-0 to approve the minutes of the October 28, 2009 Regular meeting as presented and to waive the reading of all ordinances introduced and/or adopted under this agenda.

ANNOUNCEMENTS

City Hall offices will be closed on Wednesday November 11 in observance of the Veterans' Day holiday.

Cotati voters are encouraged to cast their ballot at the November 17, 2009 special election.

Redwood Empire Disposal will be offering a fall cleanup for Cotati residents on Saturday November 14th from 8:00 a.m. – 2:00 p.m. at the Cotati Park N' Ride lot at St. Joseph's Way.

HONORARY MAYOR

Honorary Mayor Joseph Pearson of Rancho Cotate High School provided a verbal report to Council.

SONOMA STATE UNIVERSITY REPRESENTATIVE REPORT

No report.

CITY MANAGER'S REPORT

City Manager Dianne Thompson reported on the status and funding of the Old Redwood Highway South rehabilitation project and corrected inaccuracies in a recent article in the local paper.

APPROVAL OF FINAL AGENDA

Vice Mayor Coleman-Senghor asked for a motion for a time certain of 8:00 p.m. for discussion of item 5 (Council vacancy). **So moved** by Councilmember Orchard, seconded by Councilmember Gilardi. Prior to the vote, Vice Mayor Coleman-Senghor indicated that as meeting chair he would like to set a time limit for members of the public wishing to address the Council of three minutes and that he would like consensus to endeavor to end Council meetings by 11:00 p.m.

Discussion ensued regarding the proposed procedural changes. The majority of Council concurred in support for the meeting chair to make such changes. Councilmember Barich indicated opposition to the changes.

The motion passed 3-1 (Councilmember Barich voting no).

CITIZEN BUSINESS

Derek Kwan spoke in favor of opening a hookah lounge in Cotati.

Joyce Garcia read a statement regarding the Code of Ethics.

Jan Kravitz addressed the Council regarding his concern for traffic issues related to pedestrian islands and changes in the procedure of Citizens Business.

Mark Landman commented on the non-compliance of the 'no on recall' signs and the lack of staff to enforce the sign ordinance and requested Council's assistance for increased enforcement.

Ken Coleman addressed the Council regarding the Code of Ethics.

Councilmember Barich requested that the staff contact the owner of the site of the former shell station have him remove the signs. He said he had not received any notice of a violation.

DIRECTION ON FUTURE AGENDA ITEMS

Councilmember Gilardi requested that a regular report be made regarding climate change activities. **So moved** by Councilmember Orchard, seconded by Councilmember Gilardi. The Council discussed how eth report might appear on the agenda and concurred that it be made on a regular basis by the City Manager under the 'City Manager Report' section of the agenda. The Council further agreed that a motion would not be required. Accordingly, Councilmembers Orchard and Gilardi withdrew the motion and second. Council directed staff to include a regular verbal climate change activity report by the City Manager as part of the 'City Manager Report' section of the agenda.

Vice Mayor Coleman-Senghor confirmed that discussion regarding the use of plastic water bottles would be scheduled on a future agenda.

Councilmember Barich moved for a report regarding the hazards of the traffic islands. Discussion ensued relative to asking for a report from the City Engineer regarding the safety measures that have been taken without the presumption that they have been unsafe. Councilmember Barich modified his motion to request report and full discussion from the City Engineer regarding the safety concerns of the pedestrian islands. Additional discussion ensued. Councilmember Orchard indicated that she doesn't want a full discussion. Councilmember Gilardi seconded the motion and requested that all sides be heard as she has spoken with a number of people, including students, who fully support the pedestrian islands. The motion passed 4-0.

Councilmember Barich moved to scheduled discussion of a roof leak in the City Council office. There was no second to the motion.

Councilmember Barich expressed concern that items not related to city business cost staff time and indicated that such items be scheduled on a separate meeting at which Department Heads would not be required to attend.

Responding to a question from the Council, City Manager Thompson indicated that the City Attorney and the Deputy City Clerk are paid on an hourly basis.

Councilmember Barich moved to schedule on a future agenda discussion to move proclamations, presentations, and other items not related to city business to a separate meeting at which Department Heads would not be required to attend. There was no second to the motion.

Councilmember Barich moved to schedule re-consideration on December 9th of the proposed City Council initiative, originally discussed on July 22, 2009, to place a sales tax measure on the ballot. Vice Mayor Coleman-Senghor seconded the motion. Discussion ensued regarding whether to have staff report back and about Councilmember Barich's previous vote against declaring a fiscal emergency.

City Attorney Rudansky responded to questions and described the constitutional requirement for a unanimous vote declaring a fiscal emergency in order to place a sales tax on the item on a special election ballot.

Vice Mayor Coleman-Senghor restated the motion to schedule a report on the City Council sponsored sales tax revenue measure at the December 9, 2009 City Council meeting. The motion passed 4-0.

CONSENT CALENDAR

2. AUTHORIZE CITY MANAGER TO EXECUTE AGREEMENT WITH THE CITY OF ROHNERT PARK AND RANCHO ADOBE FIRE TO PARTICIPATE IN A JOINT DISASTER MANAGEMENT AND TRAINING PROGRAM (Police) (Action)

Moved by Councilmember Barich, seconded by Councilmember Gilardi and passed 4-0 to adopt a motion to authorize the City Manager to execute the Cooperative Agreement for Joint Disaster Management and Training.

PUBLIC HEARINGS

3. AMENDMENT OF COTATI MUNICIPAL CODE TITLE 13, PART II (SEWERS) (Continued from October 28, 2009) (Public Works/Engineering) (Action)

Director of Public Works/City Engineer Damien O'Bid presented the staff report.

Vice Mayor Coleman-Senghor opened the public hearing.

There being no wishing to speak, Vice Mayor Coleman-Senghor closed the public hearing.

Moved by Councilmember Orchard, seconded by Councilmember Barich and adopted 4-0 to introduce an ordinance entitled: ORDINANCE OF THE COUNCIL OF THE CITY OF COTATI REPEALING, REENACTING, AND AMENDING CERTAIN PORTIONS OF EXISTING COTATI CITY CODE TITLE 13, PART II - SEWERS.

4. ADOPTION OF A RESOLUTION APPROVING A GARBAGE AND RUBBISH DISPOSAL RATE INCREASE EFFECTIVE JANUARY 1, 2009 (City Manager) (Action)

The Council took up this item during a break from discussion of item 5.

Assistant to the City Manager/Acting Community Development Director Marsha Sue Lustig presented the staff report and responded to questions from the Council.

Vice Mayor Coleman-Senghor opened the public hearing.

Eric Kirchmann discussed the proposed resolution.

Pamela Davis of Redwood Empire Disposal summarized the proposal and responded to questions from the Council.

There being no one else wishing to speak, Vice Mayor Coleman-Senghor closed the public hearing.

Moved by Councilmember Orchard, seconded by Councilmember Gilardi and adopted 4-0 to adopt Resolution No. 2009-76 entitled: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COTATI APPROVING A GARBAGE AND RUBBISH DISPOSAL RATE INCREASE FOR THE 2010 CALENDAR YEAR

Discussion of item 5 continued at this time.

REGULAR AGENDA

5. CITY COUNCIL VACANCY (City Manager) (Action)

City Manager Dianne Thompson presented the staff report.

Vice Mayor Coleman-Senghor opened the floor to public comment.

Mike Sheehan indicated support for a special election to fill the vacancy and to place a sales tax measure on the same ballot.

Jan Kravitz indicated support for a special election to fill the vacancy.

Ken Coleman indicated support for a special election to fill the vacancy and to place a sales tax measure on the same ballot.

There being no one else wishing to speak, Vice Mayor Coleman-Senghor closed the public hearing.

Discussion ensued regarding calling a special election to fill the Council vacancy and putting a revenue measure on the same ballot.

Vice Mayor Coleman-Senghor called a recess at 8:12 p.m. and reconvened at 8:32 p.m.

City Attorney Rudnansky indicated that an election to fill the vacancy would take place on the next established election date of April 13, 2010. Further discussion ensued regarding filling the vacancy by special election, when a special election would take place and whether a sales tax measure could be placed on the same ballot.

The majority of Council members expressed support to fill the vacancy by appointment. Councilmember Barich indicated support for a special election.

Moved by Councilmember Orchard, seconded by Councilmember Gilardi and passed 3-1 (Councilmember Barich voting no) to fill the vacancy by appointment.

Discussion ensued relative to the appointment and application process. Vice Mayor Coleman-Senghor directed the Council to begin consideration of Item 4 on the agenda while the proposed application is reviewed by the Council and the public.

The Council considered item 4 at this time and continued discussion of this item after completion of item 4.

Vice Mayor Coleman-Senghor opened the floor to public comments.

Eric Kirchmann commented on the selection process and reviewed what other cities have done.

John Moore confirmed that the vacancy must be filled within 30 days and commented on the selection process.

Joyce Garcia expressed opposition to the decision to make an appointment.

(Name not discernible) spoke in favor of appointment process.

There being no one else wishing speak, Vice Mayor Coleman-Senghor closed the public comment period.

Discussion ensued relative to the proposed application, with the Council concurring to strike certain portions of the public information resume relating to personal information, to change 'Home phone' and 'Work phone' to 'Contact number' and to add 'optional' to 'E-mail'.

The Council discussed the letter of interest and adding a section for listing civic activities, whether requesting such information would be a violation of civil rights and should be optional. It was noted that applicants would not be required to supply all of the information on the form and that all applications submitted would be forwarded to the Council.

The Council discussed the application and agreed to home/business to 'contact phone' rest is okay email is optional

Moved by Councilmember Gilardi, seconded by Councilmember Orchard and passed 4-0 to approve the application with the above changes.

Discussion commenced regarding whether to have criteria or guidelines for selecting a Council member. Vice Mayor Coleman-Senghor advocated for specific criteria to apply for each applicant. The majority of Council expressed support for more flexibility and to use guidelines to consider during the applicant interview process.

Moved by Councilmember Gilardi, seconded by Councilmember Orchard and passed 3-1 (Vice Mayor Coleman-Senghor voting no) to consider the following guidelines to during the interview process: community service, public service, knowledge and understanding of the city of cotati, knowledge and understanding of regional issues and availability.

ADJOURNMENT OF SPECIAL MEETING OF THE CITY COUNCIL AND CALL TO ORDER OF SPECIAL JOINT MEETING OF CITY COUNCIL AND COMMUNITY REDEVELOPMENT AGENCY BOARD OF DIRECTORS

Vice Mayor Coleman-Senghor adjourned the special City Council meeting and called to order the special joint meeting at 9:37 p.m.

CONSENT CALENDAR

6. WARRANTS AND AUDITED CLAIMS (Administrative Services) (Action)

Moved by Councilmember Gilardi, seconded by Councilmember Orchard and passed 4-0 to receive and file warrants and audited claims for October 16th, 2009 – October 28th, 2009.

ADJOURNMENT OF JOINT MEETING; RECONVENING OF REGULAR MEETING OF CITY COUNCIL

Vice Mayor Coleman-Senghor adjourned the special joint meeting and reconvened the special City Council meeting at 9:38 p.m.

7. CORRESPONDENCE AND PENDING LEGISLATION (Discussion and possible Action)

None submitted.

CITY COUNCIL REPORTS (Discussion)

Councilmembers discussed recent correspondence and reported on recent and upcoming activities, including reports from meetings attended at City expense.

ADJOURNMENT

Vice Mayor Coleman-Senghor adjourned the regular meeting at 9:42 p.m.

Respectfully submitted,

Tamara Taylor, Deputy City Clerk

City Council Agenda

Subject: Receive and file Statement of the Votes Cast and declaration of the results of the City of Cotati Special Recall Election held on November 17, 2009.

Date: November 25, 2009

Written by: Tamara Taylor, Deputy City Clerk

Recommendation

It is recommended that the City Council: 1) Adopt a motion to receive and file the Sonoma County Clerk's Statement of the Votes Cast; and 2) adopt a resolution declaring the results of the Special Recall election held on November 17, 2009.

Background

The City of Cotati held a Special Recall election on November 17th, 2009. The election was conducted on behalf of the City of Cotati by the County of Sonoma. Pursuant to Elections Code § 10262 the County Clerk has certified the election results and provided a Statement of the Votes Cast at the City of Cotati Election. Pursuant to California Elections Code §10263 the City Council shall adopt a resolution declaring the results of the election.

Analysis/Discussion

None.

Financial Considerations

None.

Environmental Issues

None.

Attachments:

1. Statement of the Votes
2. Resolution



SONOMA COUNTY

Clerk-Recorder-Assessor

www.sonoma-county.org/cra

REGISTRAR OF
VOTERS DIVISION

P.O. Box 11485
435 Fiscal Dr.
Santa Rosa, CA 95406
Tel: (707) 565-6800
Toll Free (CA only):
(800) 750-VOTE
Fax: (707) 565-6843

MEMORANDUM

DATE: NOVEMBER 18, 2009

TO: CITY OF COTATI

FROM: JANICE ATKINSON, SONOMA COUNTY CLERK & REGISTRAR OF VOTERS

RE: OFFICIAL STATEMENT OF VOTES CAST

Enclosed please find the Official Statement of Votes Cast for your jurisdiction's contest voted upon at the November 17, 2009, Special Recall Election. This transmittal constitutes certification of the Official Canvass for adoption by your jurisdiction's governing body.

Should you have any questions in this regard, please do not hesitate to contact me at 565-1877, or Gloria Colter, Assistant Registrar of Voters, at 565-6814.

STATEMENT OF THE VOTES

CAST AT THE

**CITY OF COTATI
SPECIAL RECALL ELECTION**

HELD ON

NOVEMBER 17, 2009

COUNTY OF SONOMA

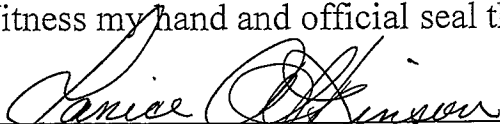
STATE OF CALIFORNIA

STATE OF CALIFORNIA)

)ss.

COUNTY OF SONOMA)

I, JANICE ATKINSON, COUNTY CLERK of said county, do hereby certify the following to be a true and correct copy of the Statement of the Votes Cast at the SPECIAL RECALL ELECTION held on November 17, 2009, for the City of Cotati herein set forth. Witness my hand and official seal this 18th day of November, 2009.



JANICE ATKINSON, COUNTY CLERK - COUNTY OF SONOMA



Recall George Barich
City of Cotati

Complete Precincts: 2 of 2

Yes	1,119	66.2%
No	571	33.8%

Replace George Barich
Term Ending 2012

Complete Precincts: 2 of 2

Susan Harvey	800	57.1%
Linell L Hardy	376	26.9%
Eric Kirchmann	210	15.0%
Write-in candidate(s)	14	1.0%

Registration and Turnout
Total

Complete Precincts: 2 of 2

Total Registered Voters	3,986	
Precinct Registration	3,986	
Precinct Ballots Cast	532	13.3%
Absentee Ballots Cast	1,183	29.7%
Total Ballots Cast	1,715	43.0%

City of Cotati Recall Election															
1	Registration	Ballots Cast	Turnout (%)	Recall George Barich City of Cotati Yes	No	Replace George Barich Term Ending 2012 Eric Kirchmann	Lineil L Hardy	Susan Harvey							
7201 PCT 7201	1826	256	14.0	176	77	33	49	126							
7201 - Absentees	1826	541	29.6	342	187	62	106	263							
7202 PCT 7202	2160	276	12.8	175	97	39	66	124							
7202 - Absentees	2160	642	29.7	426	210	76	155	287							
Precinct Totals	3986	532	13.3	351	174	72	115	250							
Absentee Totals	3986	1183	29.7	768	397	138	261	550							
Grand Totals	3986	1715	43.0	1119	571	210	376	800							

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COTATI DECLARING THE RESULTS OF THE SPECIAL RECALL ELECTION OF NOVEMBER 17, 2009

WHEREAS, a Special Recall election was held and conducted in the City of Cotati on Tuesday, November 17, 2009; and,

WHEREAS, the City Council finds that notice of said election was duly and legally given, voting precincts were properly established, election officers appointed, election supplies furnished, and that in all respects said election was held and conducted and the votes cast and declared in time, form, and manner as required by the general laws of the State of California governing elections in cities; and,

WHEREAS, the County Clerk of the County of Sonoma filed with the City on November 19th, 2009, a "Statement of the Votes Cast at the City of Cotati Special Recall Election held on November 17, 2009," certifying that she canvassed the votes cast at the City of Cotati Special Recall Election held on November 17, 2009; and,

WHEREAS, the City Council of the City of Cotati met in the Council Chambers of said City at its next regularly scheduled meeting, on Wednesday, November 25th, 2009, to declare the results of said election.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Cotati hereby declares that said Special Recall Election was held and conducted in the City of Cotati on Tuesday, November 17th, 2009 in time, form, and manner as required by law, that there were two voting precincts established for the purpose of holding said election; that the whole number of votes cast was 1,715, that there were 1,183 absentee ballots cast.

BE IT FURTHER RESOLVED that the Measure on which the people voted and the whole number of votes which it received, was as follows:

Shall GEORGE BARICH be recalled (removed) from the office of Member, City Council of the City of Cotati?"					
	Precinct 7201	Absentee 7201	Precinct 7202	Absentee 7202	Total
Yes	176	342	175	426	1119
No	77	187	97	210	571

BE IT FURTHER RESOLVED that the City Councilmember on which the people voted and the whole number of votes which it received, were as follows:

	Precinct 7201	Absentee 7201	Precinct 7202	Absentee 7202	Total
Eric Kirchmann, City Council	33	62	39	76	210
Linell Hardy, City Council	49	106	66	155	376
Susan Harvey, City Council	126	263	124	287	800

NOW THEREBE IT FURTHER RESOLVED that at said Consolidated General Election, George Barich was recalled (removed) from the office of Member, City Council of the City of Cotati and the Councilmember elected to succeed the recalled Council member for the remaining term to expire in 2012 was Susan Harvey.

IT IS HEREBY CERTIFIED that the foregoing resolution was duly introduced and legally adopted at a regular meeting of the Cotati City Council held on the 25th day of November, 2009 by the following vote, to wit:

BARICH _____
GUILARDI _____
ORCHARD _____
COLEMAN-SENGHOR _____

Approved: _____
Robert Coleman-Senghor, Mayor

Attest: _____
Tamara Taylor, Deputy City Clerk

Approved as to form:

Rich Rudnansky, City Attorney

City Council Agenda Consent

Subject: Amendment of Cotati Municipal Code Title 13, Part II (Sewers)

Date: November 25, 2009

Written by: Damien O’Bid, City Engineer/Public Works Director

Recommendation

It is recommended by staff that the Council adopt an ordinance repealing, reenacting and amending certain portions of Cotati City Code Title 13, Part II - Sewers.

Background

On November 10, 2009 the City Council introduced an ordinance amending the City of Cotati Municipal Code Title 13, Part II (Sewers) and a public hearing conducted. There are no revisions to the ordinance as a result of the public hearing.

Analysis/Discussion

Various chapters of the current Code have been condensed into the larger more comprehensive chapters of the new Code, while others have been combined into single chapters while maintaining the same text. The following is the Table of Contents of the current Code.

- | | |
|-------------------|--|
| 1. Chapter 13.34 | SEWERS-GENERAL PROVISIONS |
| 2. Chapter 13.35 | DEFINITIONS |
| 3. Chapter 13.36 | SEWERS REQUIRED |
| 4. Chapter 13.37 | PRIVATE SEWAGE DISPOSAL |
| 5. Chapter 13.38 | CONSTRUCTION OF SEWERS AND SEWER CONNECTIONS |
| 6. Chapter 13.39 | SEWER USERS |
| 7. Chapter 13.40 | SEWERS-PERMITS |
| 8. Chapter 13.41 | SEWERS-REGULATION OF WASTE DISCHARGE |
| 9. Chapter 13.42 | SEWERS-CHARGES |
| 10. Chapter 13.43 | BILLING AND PAYMENT OF SEWER SERVICE CHARGES |
| 11. Chapter 13.44 | SEWERS-ADMINISTRATION |
| 12. Chapter 13.45 | SEWERS-ENFORCEMENTS |

As a partner in the Subregional system, the City of Cotati is required to adopt the following chapters of the new Code:

1. Chapter 13.34:ADMINISTRATION
2. Chapter 13.35:GENERAL AND PRETREATMENT ENFORCEMENT
3. Chapter 13.36:PRETREATMENT

In addition, to update and make the City's municipal code consistent with the other subregional partners, the following additional chapters have been revised:

1. Chapter 13.37:CONSTRUCTION OF SEWERS AND SEWER CONNECTIONS
2. Chapter 13.38:PRIVATE SEWAGE SYSTEMS

Although it was publically noticed, the following existing chapters will not be updated at this time:

1. Chapter 13.42 SEWERS-CHARGES
2. Chapter 13.43 BILLING AND PAYMENT OF SEWER SERVICE CHARGES

As stated in the Background section of this staff report, one of the significant changes is the regulation of mercury amalgam from dental offices. In Cotati, there are 3 dental offices with Subregional wastewater discharge permits , which will be subject to the requirements for mercury amalgam separators. The mercury amalgam separator typically costs around \$\$400 - \$700 with a \$200 installation cost. To assist in mitigating the cost of this requirement, the subregional system has initiated a reimbursment of \$500.00 to partially off-set the cost of installing these devices. The dental office will have one year from the Code adoption date to install the amalgam separator.

At present, the City of Sebastopol and City of Santa Rosa, have adopted these changes. And the City of Rohnert is scheduled for adoption at the November 24, 2009 council meeting.

Financial Considerations

None. Pretreatment monitoring is conducted by the subregional staff.

Environmental Issues

No adverse environmental impacts.

Attachments:

1. Proposed Sewer Use Ordinance

DO:tt

ORDINANCE NO. _____

ORDINANCE OF THE COUNCIL OF THE CITY OF COTATI REPEALING, REENACTING, AND AMENDING CERTAIN PORTIONS OF EXISTING COTATI CITY CODE TITLE 13, PART II - SEWERS

THE PEOPLE OF THE CITY OF COTATI DO ENACT AS FOLLOWS:

Section 1.

Chapter 13.34 Sewers-General Provisions, Chapter 13.35 Definitions, Chapter 13.36 Sewers Required, and Chapter 13.39 Sewer Users are repealed in their entirety and reenacted as Chapter 13.34 Administration to read as follows:

**CHAPTER 13.34
ADMINISTRATION**

Sections:

- 31.34.000 Short Title
- 31.34.010 Purpose of Title - Generally
- 31.34.020 Annexation Required; exceptions
- 31.34.025 Abbreviations
- 31.34.030 Definitions
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- 31.34.038 Permissible Discharges
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31.34.000 Short Title

The ordinance codified in Chapters 13.34 through 13.38 shall be known as the “sewer use ordinance.”

31.34.010 Purpose of Title—Generally

The purpose of the ordinance codified in Chapters 13.34 through 13.38 is to revise and consolidate prior ordinances governing the construction and use of the city sewage collection and treatment works to avoid misuse and to comply with applicable state and federal requirements. The ordinance includes provisions for control of sewer construction, source control of toxic substances and the monitoring and control of the quality and quantity of industrial wastes. It requires charges for connection to and use of the sewerage system including both, the city collection sewers and the subregional interception, treatment, disposal, and reclamation system, and includes provisions for enforcement and penalties for violation.

31.34.020 Outside Service Area Agreements

(A) No premises shall be connected to the sewage facilities of the City unless the premises have been annexed to the City or the conditions specified in subsection (B) below have been satisfied. No premises shall be required to connect to such sewage facilities unless and until the premises has been so annexed.

(B) Developed property outside of the City's jurisdictional boundaries but within the City's sphere of influence may be connected to the sewage facilities of the City provided all of the following conditions are satisfied:

1. There is an existing or potential threat to public health or safety due to a failing septic system, as documented by the Sonoma County Health Department; and
2. The Owner and City have entered into a recordable agreement that runs with the land limiting development to existing levels and setting the terms and conditions under which the property owner will be permitted to connect to the City's sewerage facilities; and
3. A covenant is recorded against the property prohibiting the current and future property owners from protesting annexation to the City; and
4. The existing use has been determined to be either legal or legally non-conforming by the Sonoma County Planning and Resource Management Department; and
5. If required, the extension of city sewage facilities to the property has been approved by the Sonoma County Local Agency Formation Commission (LAFCO); and
6. An application for connection to the city sewage facilities has been filed by the property owner and the application has been approved by the City.

31.34.025 Abbreviations

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

- AO - Administrative Order
- BMP - Best Management Practices
- BOD - Biochemical Oxygen Demand
- BTEX - Benzene, Toluene, Ethylbenzene, Xylene
- C° - Centigrade
- CFR - Code of Federal Regulations
- CIU - Categorical Industrial User
- COD - Chemical Oxygen Demand
- EPA - Environmental Protection Agency
- ERP - Enforcement Response Plan
- F° - Fahrenheit
- Gpd - Gallons Per Day
- MGD - Million gallons per day
- mg/l - Milligrams per Liter
- NOV - Notice of Violation
- NPDES - National Pollutant Discharge Elimination System
- O&M - Operations and Maintenance
- POTW - Publicly Owned Treatment Works
- RCRA - Resource Conservation and Recovery Act
- SIC - Standard Industrial Classification
- SIU - Significant Industrial User
- SNC - Significant Non-Compliance
- SWDA - Solid Waste Disposal Act
- TDS - Total Dissolved Solids
- TKN - Total Kjeldahl Nitrogen
- TGM - Thousand Gallons per Month
- TRC - Technical Review Criteria
- TSS - Total Suspended Solids
- TTO - Total Toxic Organics
- UPC_ - Uniform Plumbing Code, as adopted by the City of Cotati
- USC - United States Code

31.34.030 Definitions

For the purposes of this title, the following words and phrases shall have the meanings respectively ascribed to them in this section:

- (1) “**Act**” means Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251, et seq., or as amended.

(2) “**Administrator**” means the appropriate Environmental Protection Agency (EPA) Regional Administrator (San Francisco EPA, Region IX).

(3) “**Amalgam Separator**” means a device that employs filtration, settlement, centrifugation, or ion exchange to remove amalgam and its metal constituents from a dental office vacuum system before it discharges to the sewer.

(4) “**Amalgam Waste**” means and includes non-contact amalgam (amalgam scrap that has not been in contact with the patient); contact amalgam (including, but not limited to, extracted teeth containing amalgam); amalgam sludge captured by chair-side traps, vacuum pump filters, screens, and other amalgam trapping devices; used amalgam capsules; and leaking or unusable amalgam capsules.

(5) “**Applicant**” means a person or entity making application for a permit and shall be an occupant and/or owner, or an occupant and/or owner’s authorized representative of the premises to be served by the sewer for which a permit is required.

(6) “**Approval authority**” means the Program Director in a National Pollutant Discharge Elimination System (NPDES) state with an approved state pretreatment program.

(7) “**Approved POTW pretreatment program**” means a program administered by a publicly owned treatment works (POTW) that meets the criteria established in 40 CFR, Parts 403.8 and 403.9, or as amended, and which has been approved by the Administrator or Approval Authority in accordance with 40 CFR, Part 403.11, or as amended.

(8) “**Authorized Representative**” of the applicant or user.

(a) If the applicant or user is a corporation:

(i) 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

(ii) The manager of one or more manufacturing, production, or operation facility employing more than 250 persons or having gross annual sales or expenditures exceeding \$60 million (in fourth-quarter 2005 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the applicant or user is a partnership, association, or sole proprietorship: an authorized representative shall mean a general partner or proprietor, respectively.

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

(d) The individuals described in paragraphs (1) through (3), may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City’s Director of Public Works.

(e) A user not falling within one of the above categories must designate as the authorized representative an individual responsible for the overall operation of the facility.

(9) “**Average dry weather flow (ADWF)**” means the mean daily volume of sewage during the period of time not influenced by rainfall.

(10) “**Best available technology (BAT)**” means the most efficient hardware, fixtures and systems as determined by the Director of Public Works for reduction of the amount of wastewater volume or pollutants.

(11) “**Best Management Practices (BMP)**” means schedules of activities, prohibition of practices, maintenance procedures, and other management practices to prevent or reduce unintended discharges to the sanitary sewer system. BMPs include, but are not limited to, pretreatment requirements, operational procedures and practices, maintenance and repair of equipment, record keeping, containment to prevent spills or leaks, sludge or waste disposal, good housekeeping practices or diversion of water away from raw materials or chemical storage areas.

(12) “**Board of Public Utilities**” means the Board of Public Utilities of the City of Santa Rosa.

(13) “**BOD**” means biochemical oxygen demand as determined by the 5-day BOD in accordance with standards set forth in 40 CFR Part 136, or as amended.

(14) “**Building**” means any structure used or intended for supporting or sheltering any use or occupancy as determined by the Director of Public Works.

(15) “**Building sewer**” means a sewer on private property serving a specific building or property and maintained by the owner thereof. – 13.35.030

(16) “**Categorical pretreatment standards**” means any regulation containing pollutant discharge limits promulgated by EPA under Section 307(b) and (c), or as amended, of the Clean Water Act applicable to industrial users.

(17) “**Categorical User or Categorical Industrial User (CIU)**” means all industrial users that are subject to categorical pretreatment standards under 40 CFR Part 403.6 or as amended and in any industry as defined in 40 CFR Parts 405-599 or as amended.

(18) “**City**” means the City of Cotati, Sonoma County, California.

(19) “**City engineer**” means the city engineer for the city, or his duly authorized representative. – 13.35.050

(20) “**City sewer or City sewerage system**” means any public sewer located within an easement or public right-of-way which is maintained by the city. – 13.35.060

(21) “**Color**” means the optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent transmittance is equivalent to zero optical density.

(22) “**Commercial User**” means all retail stores, restaurants, office buildings, laundries, and other private business and service establishments, including churches and lodges.

(23) “**Compatible pollutant**” means a component of wastewater which does not interfere with, is removed by, and is not otherwise incompatible with the Subregional Water Reclamation System or its processes.

(24) “**Compliance Schedule**” means a detailed time schedule of specific actions which a user is required to take in order to prevent or correct a violation of any prohibitions or limitations prescribed herein or any of the City’s effluent limitations or pretreatment standards promulgated in accordance herewith.

(25) “**Composite Sample**” means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow proportional or time.

(26) “**Connected**” means a physical joinder of any plumbing or drainage system or fixture contained in any structure to the Subregional Sewer System.

(27) “**Contamination**” means an impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease.

(28) “**Cooling Water**” means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat and other minor chemical constituents.

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

(30) “**Control authority**” means the Director of Public Works or duly authorized representatives.

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

(32) “**Director**” means the Director of Public Works or duly authorized representative.

(33) “**Discharger**” is synonymous with “User”.

(34) “**Dissolved solids**” means the residue upon evaporation of water after filtration in accordance with standards set forth in 40 CFR Part 136, or as amended, or any other test procedures approved by the Administrator. Dissolved solids are also termed total dissolved solids or “TDS.”

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

(36) “**EPA**” means the Federal Environmental Protection Agency.

(37) “**Equivalent single-family unit (ESU)**” means a unit of flow that is equivalent to that from a single-family residential unit.

(38) “**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 under Section 307 (b) and (c) of the Act or as amended which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act or as amended.

(39) “**Federal Water Pollution Control Act of 1972**” means Public Law 92-500, officially entitled the “Federal Water Pollution Control Act Amendments of 1972,” also known as the Clean Water Act, and as amended, as well as guidelines, limitations, and standards promulgated by the Environmental Protection Agency.

(40) “**Garbage**” means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food and from the handling, storage, and sale of food products.

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

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

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

(44) “**Incompatible pollutant**” means a component of industrial waste water which interferes with, is not removed by, or is otherwise incompatible with the subregional sewage treatment and water reclamation plant or their processes. – 13.35.150

(45) “**Indirect discharge**” means the introduction of pollutants into a POTW from any non-domestic source regulated under Section 307(b), (c), or (d), or as amended, of the Act.

(46) “**Industrial cost recovery**” means the portion of annual capital cost recovery allocable to industry and subject to federal industrial payback.

(47) “Industrial user” means a source of indirect discharge including SIUs and other industry.

(48) “**Industrial wastewater**” means the waterborne waste and wastewater from any production, manufacturing, or processing operation of whatever nature including institutional and commercial operations where water is used for the removal of significant quantities of waste other than from human habitation of premises connected to the public sewers.

(49) “**Infiltration**” means water entering the sewer system through the ground.

(50) “**Inflow**” means water entering a sewer system from surface drainage and from clean cooling water from non-contact cooling systems.

(51) “**Instantaneous Maximum Allowable 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 samples collected, independent of the industrial flow rate and the duration of the sampling event.

(52) “**Interceptor**” means a grease removal device designed to intercept, trap, or otherwise prevent grease, sand, flammable liquids, or other substances potentially harmful to the sewer system from entering.

(53) “**Interference**” means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

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

(b) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sludge use or disposal in compliance with statutory provisions, regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Act or as amended; the Solid Waste Disposal Act (SWDA) or as amended, including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA) or as amended, and including regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA or as amended; the Clean Air Act or as amended; the Toxic Substances Control Act or as amended, and the Marine Protection, Research and Sanctuaries Act or as amended..

(54) “**Local Limits**” means the technically and/or literature-based limits, expressed either as concentration or as mass, of those pollutants.

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

(56) “**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.

(57) “**Multifamily residential unit**” means a residential unit as defined in Section 17.90 of City Code and as amended that is connected through a service lateral connection to the collection system and the service lateral connection serves more than one residential unit.

(58) “**National Pretreatment Standard**” or National Categorical Pretreatment Standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307 (b) and (c), or as amended, of the Act, which applies to industrial users. This term includes prohibitive discharge limits established pursuant to 40 CFR, Part 403.5, or as amended.

(59) “**Natural outlet**” means any outlet into a watercourse, ditch, pond, lake, or other body of surface or groundwater.

(60) “**New source**”:

(a) means any building, structure, facility, improvement 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 307(c), or as amended, of the Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

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

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

(iii) The production or wastewater generating processes of the building, structure, facility, improvement or installation are substantially independent of an existing source at the same site or lot. The Director of Public Works shall determine whether the production or wastewater generating processes are substantially independent, taking into account these factors 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.

(b) Construction on a site at which an existing source is located resulting in a modification of said source if the construction does not create a new building, structure, facility, improvement or installation but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this section has commenced if the applicant, user or customer has:

(i) Begun, or caused to begin as part of a continuous onsite construction program:

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

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which 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 subsection.

(61) “**Nonresidential user**” means users whose premises are primarily for commercial, or governmental or other nonresidential activity but excluding premises of industrial users. Incidental residential use is not precluded.

(62) “**NPDES permit**” means National Pollutant Discharge Elimination System Permit issued to a POTW pursuant to Section 402 of the Act, or as amended.

(63) “**Nuisance**” means any condition caused, maintained or permitted to exist which constitutes a threat to public health, safety, and welfare or which is injurious to the senses or which significantly obstructs, injures or interferes with the reasonable or free use of property in a neighborhood, community or to any considerable number of persons. A public nuisance also has the same meaning as set forth under the California Civil Code.

(64) “**Off-site Sewer**” means a public sewer constructed or to be constructed outside the boundaries of a subdivision or outside the edges of a lot.

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

(66) “**Peak wet weather flow (PWWF)**” means peak rate of flow occurring during or from the effects of precipitation.

(67) “**Permanent sewer service**” means the installation of a permanent (non-temporary) City water meter by City forces in an approved water meter box accompanied by (1) completion of construction of a permanent sewer lateral to a permitted structure, and (2) a request to the City by the property owner, agent, or tenant to establish a permanent sewer service account. For sewer service only requests, “permanent sewer service” means the completion of construction of a permanent sewer lateral to a permitted structure accompanied by a request to the City by the property owner, agent, or tenant to establish a permanent sewer service account.

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

(69) “**pH**” means the logarithm of the reciprocal of the hydrogen-ion concentration and indicates the measure of acidity or alkalinity.

(70) “**Pollutant**” includes but is not limited to dredge soil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TDS, TSS, turbidity, color, BOD, COD, toxicity, or odor) as well as any other referenced pollutants in 40 CFR or as amended.

(71) “**Pollution**” means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects: (a) such waters for beneficial use; or (b) facilities which serve such beneficial uses.

(72) “**Premises**” means a parcel of real property, or portion thereof, including any improvements thereon, which is determined by the Director of Public Works to be a single unit for the purposes of receiving, using, and paying for sewerage service.

(73) “**Pretreatment**” means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical, or biological processes, process changes or by other means, except as prohibited by 40 CFR Part 403.6 (d), or as amended.

(74) “**Pretreatment requirements**” means any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on an industrial user.

(75) “**Pretreatment Standards or Standards**” means discharge standards, categorical pretreatment standards, and local standards and limits.

(76) “**Prohibited Discharge Standards or Prohibited Discharges**” means prohibitions against the discharge of certain substances.

(77) “**Public agency**” means the United States Government or any department or agency thereof; the State of California or any department or agency thereof; any city, county, town, or any department or agencies thereof; any school district; any other governmental or public district or entity; or any other legal public district, entity or entities; or any combination of the foregoing.

(78) “**Publicly owned treatment works (POTW)**” means a treatment works as defined by Section 212, or as amended, of the Act, which is owned and/or operated by a State or municipality. This includes any devices and systems used in the collection, storage, treatment, recycling, and reclamation of the municipal sewage or industrial wastewater of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant.

(79) “**Regional Water Quality Control Board**” means the California Regional Water Quality Control Board, North Coastal Region, which has jurisdiction in Cotati.

(80) “**Residential user**” means users whose premises are primarily for residential purposes and have no significant producing or processing activity of a commercial or industrial nature.

(81) “**Septic Tank Waste**” means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks. (See Holding Tank Waste.)

(82) “**Sewage**” means the water-borne wastes received from human habitation and use of premises for residential, business, institutional, commercial and industrial purposes.

(83) “**Sewer service lateral**” means that portion of the sewer system which connects the user’s premises to the City sewer.

(84) “**Sewer or sanitary sewer**” means a pipe or conduit which carries sewage and/or industrial wastewater and to which storm, surface, and groundwater are not intentionally admitted. Unless otherwise qualified, the word “sewer” when used in this title shall be taken to mean “sanitary sewer.” A City sewer or public sewer is any sewer located within an easement or public right-of-way and which is maintained by the City.

(85) “**Sewer or sanitary overflow**” means any overflow, spill, release, discharge or diversion of untreated or partially treated wastewater that may or may not reach water of the United States or that may or may not cause wastewater backups into buildings or onto private property.

(86) “**Sewer system**” means all works for collecting, pumping, treating, disposing, storing, and reclaiming sewage.

(87) “**Shall**” is mandatory, and “**may**” is permissive.

(88) “**Significant industrial user (SIU)**” means A user subject to categorical pretreatment standards under 40 CFR Part 403.6 or as amended and in any industry as defined in 40 CFR Parts 405-471 or as amended; or a user that:

(a) Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blowdown wastewater);

(b) Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW; or

(c) Is designated as such by the Director of Public Works on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR Part 403.8(f)(6)) or as amended.

(89) “**Single-family residential unit**” means a residential unit as defined in Section 17.90 of the City Code and as amended that is served by a single service lateral.

(90) “**Sludge**” means a primarily organic solid product produced by wastewater treatment processes that can be beneficially recycled.

(91) “**Slug Discharge**” means a discharge capable of causing adverse impacts to the City, its workers, or the environment, or any pollutant including an oxygen-demanding pollutant released in a discharge at a flow rate and/or pollutant concentration which may cause interference with the operation of the City sewer system. A slug discharge is considered to be a discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge. Batch discharges are intentional, controllable discharges that occur periodically within an industrial user’s process (typically the result of a non-continuous process). Accidental spills are unintentional, largely uncontrolled discharges that may result from leaks or spills of storage containers or manufacturing processes in an area with access to floor drains.

(92) “**Standard analytical procedures defined**” means procedures contained in the latest editions of “Standard Methods for the Examination of Water and Wastewater” (American Public Health Association), in American Society of Testing and Materials (ASTM) standard and tentative methods, and other standard procedures appropriate to the conditions as set forth or approves by the EPA.

(93) “**Standard Industrial Classification or SIC**” means a classification pursuant to the latest published edition of the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget used to promote the comparability of industries.

(94) “**Subregional system**” means the Santa Rosa Subregional Water Reclamation System service area, a POTW, which includes the Cities of Santa Rosa, Rohnert Park, Sebastopol, Cotati, and the South Park County Sanitation District.

(95) “**Suspended solids (SS)**” means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering per standards set forth in 40 CFR Part 136, or as amended, and amendments thereto or any other test procedure approved by the Administrator. Other test procedures may be used when approved by the Director of Public Works.

(96) “**Total Dissolved Solids (TDS)**” means the residue upon evaporation of water after filtration. Standards for analysis are set forth in 40 CFR Part 136, or as amended. Other test procedures may be used when approved by the Director of Public Works.

(97) “**Total Kjeldahl Nitrogen (TKN)**” means ammonia as nitrogen, as measured by the Kjeldahl method. Standards for analysis are set forth in 40 CFR Part 136 or as amended. Other test procedures may be used when approved by the Director of Public Works.

(98) “**Toxic Pollutant**” means one of the pollutants or combinations of pollutants listed as toxic under Section 307 of the Act or as amended.

(99) “**Trade secret**” means a method or process, not patented, but known only to persons using it in producing an article of trade or a service having commercial value.

(100) “**Treatment Plant Effluent**” means treated wastewater from the Subregional system.

(101) “**User**” means any person who is owner of record, lessee, sublessee, mortgagee in possession, or responsible for property having a connection to a City sewer or for processes which contribute sewage or industrial wastewater to a City sewer. See also “industrial user.”

(102) “**User agency**” means a public agency which by agreement with the City is served by and acquires a capacity service in the Subregional system.

(103) “**Waste**” includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive associated with human habitation, or of human or animal origin, or from any producing, manufacturing or processing operation of whatever nature. See also “industrial wastewater.”

(104) “**Waste Hauler**” means those that haul wastewater from a domestic, commercial, industrial origin or others as approved by the Director of Public Works to the POTW. Such domestic sources include chemical toilets, campers, trailers, septic tanks, or cesspools.

(105) “**Wastewater**” means the liquid and water-carried industrial wastewater, or sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which is contributed to the City sewer system.

(106) “**Wastewater Discharge Permit**” means the written permit or mechanism by which new or increased contributions of pollutants, or changes in the nature of pollutants, to the Subregional system by industrial users, may be controlled to ensure compliance with applicable pretreatment standards, pretreatment requirements, or City local limits.

(107) “**Wastewater Treatment Plant or Treatment Plant**” means that portion of the POTW which is designed to provide treatment of municipal sewage and industrial wastewater.

(108) “**Water quality requirements**” means requirements for Subregional system’s treatment plant effluent established by the National Pollutant Discharge Elimination System permit, or by state or federal regulatory agencies for the protection of receiving water quality. Water quality requirements include effluent limitations and waste discharge standards, limitations, or prohibitions which may be established, adopted or amended from time to time by state or federal laws or regulatory agencies.

(109) “**Waters of the State**” or “**Receiving Waters**” means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

31.34.035 Responsibilities

A. City. The Director of Public Works is charged with responsibility for the administration and enforcement of the provisions of this Title. Except as otherwise provided herein, the Director of Public Works shall administer, implement, and enforce the provisions of this Title. Any powers granted to or duties imposed upon the Director of Public Works may be delegated by the Director of Public Works to authorized representatives.

B. Responsibility of Users. It shall be the responsibility of the applicant, user and/or discharger to comply with all of the provisions of this Title. The omission to act by the City and/or the failure of the City to take cognizance of the nature of the operation of the applicant, user or discharger and/or the properties of the applicant's, user's or discharger's wastewater shall not relieve the applicant, user or discharger of responsibility to comply with the conditions of this Title, including, but not limited to, such requirements regarding permitting, pretreatment, monitoring, and reporting. It shall be the responsibility of the applicant, user or discharger to make determinations as to the nature of its operation and wastewater flow and to take such actions as may be required under this Title prior to any discharge of wastewater, whether or not the applicant, user or discharger has been informed by the City of the requirements which may apply to the applicant, user or discharger regarding its discharge.

C. User shall maintain, operate, and repair, at his own expense and after obtaining all required permits, that portion of sewer service lateral and cleanout which are located upon, within, or under any property not owned by the City. The user shall be responsible for maintaining a clear, unobstructed sewer service lateral from the user's premises to the City sewer main.

31.34.036 Sewers Required

A. It is unlawful to discharge any sewage, industrial wastewater or other polluted waters into any storm drain or natural outlet.

B. The owner of any parcel used for human occupancy, employment, recreation, or other human purpose which utilizes a private sewage system and is situated within the City and abutting on any street or easement in which there is situated a sanitary sewer within 200 feet of the property line closest to the available sewer, and designed to serve such parcel is required to install, at his expense, a connection with the public sewer in accordance with the provisions of this title within 90 days after date of official notice by the Director of Public Works to do so. Such official notice may inform the owner that no person may construct, excavate, maintain, cause, allow or permit to be constructed, excavated, or maintained on any parcels, any private sewage system, sewer pipes or other pipes or conduits, including residential graywater systems as defined by Chapter 22, Section 14875 et seq., of the California Water Code and as amended, for the treatment and discharge of sewage or impure waters, gas, vapor, oils, acids, tar or any other matter or substance offensive, injurious or dangerous to health. The private sewage system shall be removed or cleaned in accordance with Chapter 13.38 of this Title or with the approvals received from the County of Sonoma

C. All development and use proposals requiring a city building permit or development review permit shall include provisions for connection to the sewage facilities of the city. Approval of said permit or proposal shall be conditioned upon connection to city sewage facilities regardless of the distance of the property to said facilities. No premise shall be issued a city permit unless the property owner of the premise enters into a sewer connection agreement with the city. Costs of the connection including sewer line extension, engineering and the preparation of the sewer connection agreement shall be borne by the property owner. Exceptions to this requirement may be granted where the review authority finds that the application:

1. Will not result in a change of use; and
2. Will not result in an increase in number of bedrooms; and
3. Will not result in an increase to the number of parcels (i.e., no subdivisions or lot splits); and
4. Will meet current code requirements of the county of Sonoma for septic systems.

31.34.038 Permissible Discharges

Wastewater may be discharged into City sewers for collection, treatment, and disposal by the City, provided that such wastes do not contain substances prohibited as described in 31.36.070 or as amended or exceed limitation of wastewater volume or strength, as set forth in this Title and, if applicable, in a wastewater discharge permit; and further, provided that the user pays all applicable City charges and is in compliance with all other terms of this Title.

31.34.040 User Classifications

All users shall be classified for sewage collection and disposal purposes in accordance with the governing activity conducted on the premises, as determined by the Director of Public Works. User classifications are as follows:

A. Residential: Users whose premises are primarily for residential purposes and have no significant producing or processing activity of a commercial or industrial nature.

B. Nonresidential: Users whose premises are primarily for commercial, governmental, or other nonresidential activity, but excluding premises of industrial users. Incidental residential use is not precluded.

C. Industrial: Industrial users are defined in Section 31.34.030, or as amended.

31.34.045 Violations Unlawful

It shall be unlawful for any person to connect to, reconnect to, install or provide, maintain, and use any portion of the sewer system of the City except as provided by this Title.

31.34.046 Violation-Penalty

Any person who violates any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed one thousand dollars, or by imprisonment in the county jail for not more than six months, or by both fine and imprisonment. Each day a violation exists shall be considered a separate violation.

31.34.050 Ministerial Permit Issuance

The City has determined that the issuance of a wastewater discharge permit pursuant to the provisions of this Title is a ministerial act.

31.34.060 Severability

If any provision of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.”

Section 2.

Chapter 13.45 Sewers-Enforcement is repealed in its entirety and reenacted as Chapter 13.35 General and Pretreatment Enforcement to read as follows:

CHAPTER 13.35

GENERAL AND PRETREATMENT ENFORCEMENT

Article I - General Enforcement

Sections:

- 31.35.010 Intent
- 31.35.020 Enforcement Response Plan
- 31.35.030 Administrative Fines- Civil Penalties
- 31.35.040 Judicial Enforcement Remedies
- 31.35.050 Injunctive Relief
- 31.35.060 Performance Bonds
- 31.35.070 Liability Insurance
- 31.35.080 Potable Water Service Termination
- 31.35.090 Public Nuisances
- 31.35.100 Cost Reimbursement

Article II - Pretreatment Enforcement

- 31.35.110 Responding to Significant Noncompliance
- 31.35.120 Publication of Users in Significant Noncompliance
- 31.35.130 Compliance Schedules
- 31.35.135 Search/Inspection Warrants
- 31.35.140 Emergency Suspension of Discharge
- 31.35.130 Waste Water Discharge Permit- Revocation/Termination of Service
- 31.35.160 Upset
- 31.35.170 Bypass
- 31.35.180 Affirmative Defense
- 31.35.190 Disputes- Request for Ruling
- 31.35.200 Appeals
- 31.35.210 Fraud and False Statements
- 31.35.220 Pretreatment Charges and Fees

Article I – General Enforcement

31.35.010 Intent

The enforcement provisions specified in this Title applies to all classes of users to the extent such user violates any provision of this Title or administrative order of the Director of Public Works pursuant to this Title. In order to achieve the maximum degree of compliance desired, the City may use a variety of enforcement mechanisms including City Code Title 1. The enforcement mechanisms may range from informal administrative action, to a request for criminal prosecution. The City may, at its discretion, implement the use of any mechanism or the concurrent use of several mechanisms in order to enforce the provisions of this Title. The enforcement mechanisms provided herein may be cumulative in respect to such other enforcement mechanisms or civil and criminal penalties as may be otherwise available under the laws of the State of California and the United States of America. Nothing in this Title is intended to prevent the state and/or federal regulatory agencies from undertaking enforcement actions as may otherwise be available due to a violation of this Ordinance which also constitutes a violation of federal or state statutes and regulations, such as (1) the Clean Water Act (33 U.S.C. § 1251, et seq.); (2) California Porter-Cologne Water Quality Act (California Water Code § 13000, et seq.); (3) California Hazardous Waste Control Law (California Health and Safety Code § 25100 - 25250); (4) RCRA (42 U.S.C. § 6901, et seq.); and (5) California Government Code § 54739 - 54740.6. The referenced state and federal laws, along with other pertinent laws, provide authority for the City's enforcement mechanisms. [Porter-Cologne Water Quality Control Act, § 13362; California Government Code § 54740, 54740.5 and 54740.6.]

31.35.020 Enforcement Response Plan

An Enforcement Response Plan (ERP) shall be approved by the Santa Rosa Board of Public Utilities to meet the requirements of 40 CFR Part 403 of the Clean Water Act and State waste discharge requirements. The ERP shall outline various administrative actions the Director of Public Works may take for any violation of this Title.

When the Director of Public Works finds that a user has violated, or continues to violate any provisions of this Title, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Director of Public Works may serve upon that user but is not limited to any of the following enforcement actions:

A. Notice of Violation (NOV). When the Director of Public Works finds that a user has violated, or continues to violate, any provision of this Title, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director of Public Works may serve upon that user a written Notice of Violation. Within 10 days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Director of Public Works. 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. Nothing in this Section shall limit the authority of the Director of Public

Works to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

B. Administrative Orders (AO). The Director of Public Works may issue Administrative Orders, or enter into assurances of compliance, or other similar documents establishing an agreement with any user responsible for the noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document.

(1) Consent Order. The Director of Public Works may enter into Consent Orders, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and affect as administrative orders issued and shall be judicially enforceable.

(2) Show Cause Order. The Director of Public Works may order a user which has violated, or continues to violate, any provision of this Title, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Director of Public Works and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail, return receipt requested, at least 10 days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

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

(4) Cease and Desist Orders. When the Director of Public Works finds that a user has violated, or continues to violate, any provision of this Title, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Director of Public Works may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- (a) Immediately comply with all requirements; and
- (b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

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

31.35.030 Administrative Fines – Civil Penalties

A. When the Director of Public Works finds that a user has violated, or continues to violate, any provision of this Title, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director of Public Works may fine such user in an amount determined pursuant to the ERP. In addition, pursuant to the authority of California Government Code Sections 54739 to 54740.6, the City may issue administrative complaints, conduct administrative hearings, and/or impose civil penalties in accordance with the procedures set forth in these sections for violation of the City’s requirements set forth in this Title. The amount of any civil penalties imposed under this Section which have remained delinquent for a period of 60 days shall constitute a lien against the real property of the discharger from which the discharge originated resulting in the imposition of the civil penalty. [California Government Code ‘ ‘ 54740 and 54740.5]

B. Unpaid charges, fines, and penalties shall, after 30 calendar days, be assessed an additional penalty of the unpaid balance, and interest shall accrue thereafter. A lien against the user’s property may be sought for unpaid charges, fines, and penalties.

C. Users desiring to dispute such fines must file a written request for the Director of Public Works to reconsider the fine along with full payment of the fine amount within 10 days of being notified of the fine. Where the Director of Public Works believes a request has merit, the Director of Public Works may convene a hearing on the matter within 13 days after receiving the request from the user. The Director of Public Works may add the costs of preparing administrative enforcement actions, such as notices and orders to assess the fine. In the event the user’s appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user.

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

31.35.040 Judicial Enforcement Remedies

Any user who violates any order issued by the Director of Public Works for violation of provisions of this Title regulating or prohibiting discharge of wastewater which causes or threatens to cause a condition of contamination, pollution, or nuisance, as defined in Section 31.34.030, or as amended, may be liable civilly in a sum not to exceed \$25,000 for each day in which such violation occurs.

31.35.050 Injunctive Relief

When the Director of Public Works finds that a user has violated, or continues to violate, any provision of this Title, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Director of Public Works may seek the issuance of a temporary or permanent injunction, as appropriate, to restrain or compel the specific performance of the wastewater discharge permit, order, or other requirement imposed by this Title on activities of the user. The Director of Public Works may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user. [California Government Code ' 54740]

31.35.060 Performance Bonds

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

31.35.070 Liability Insurance

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

31.35.080 Potable Water Service Termination

Whenever a user has violated or continues to violate any provision of this Title, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, potable water service to the user may be terminated. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

31.35.090 Public Nuisances

A violation of any provision of this Title, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Director of Public Works.

Any person(s) creating a public nuisance shall be subject to the provisions of the City Code governing such nuisances, including reimbursing the City for any costs incurred in removing, abating, or remedying said nuisance.

31.35.100 Cost Reimbursement

A. When the discharge of wastewater causes an obstruction, damage, or other impairment to the City sewer system or treatment plant, the Director of Public Works may tabulate the expenses incurred for the work required to clean or repair the facility and correct the treatment process. Such expenses shall be reimbursed to the City by adding said expenses to the user’s billing for industrial service charges.

B. All costs associated with the City’s undertaking of enforcement actions pursuant to this Title, including attorney’s fees for civil or administrative actions undertaken or any fines incurred by the City, shall be paid by the user. These costs may include but not be limited to the costs for termination of service, reinstatement of service, compliance sampling and analysis, and administrative activities undertaken by the City. However, if the user prevails in an appeal or a civil action taken to nullify an enforcement action pursued by the City under this Title, the user shall not be responsible for the costs incurred by the City in pursuing said enforcement action.

Article II - Pretreatment Enforcement

31.35.110 Responding to Significant Noncompliance

Any violation of pretreatment standards or requirements (limits, sampling, analysis, reporting, and meeting compliance schedules and regulatory deadlines) is an instance of noncompliance for which the Significant Industrial User (SIU) is liable for enforcement, including penalties per Title 1 of the City Code. However, the City is required to identify violations or patterns of violations by SIUs that are deemed to be instances of significant noncompliance (SNC). Additionally, the determination of significant noncompliance shall be used as the basis for reporting the SNC to the regulatory authorities and publishing of the list of industries in SNC as is required of the City by Pretreatment Program Standards.

31.35.120 Publication of Users in Significant Non-Compliance

The Director of Public Works shall publish annually in accordance with 40 CFR 403 or as amended, in any paper of general circulation that provides meaningful public notice within the jurisdiction served by the POTW, a list of the users which, during the previous 12 months, were in significant noncompliance (SNC) with applicable pretreatment standards and requirements. For the purposes of this provision, a Significant Industrial User (or any Industrial User which violates paragraphs (C), (D), or (H) of this section) is in significant noncompliance if its violations meet one or more of the following criteria:

A. Chronic violations of wastewater discharge limits, defined here 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;

B. Technical Review Criteria (TRC) violations, defined here as those in which 33% or more of wastewater measurements taken for the same 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 TRC criteria (TRC=1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

C. Any other discharge violation that the Director of Public Works believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

D. Any discharge of pollutants that have caused imminent endangerment to the public or to the environment, or have resulted in the Director of Public Work's exercise of its emergency authority to halt or prevent such a discharge;

E. Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

F. Failure to provide within 45 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

G. Failure to accurately report noncompliance; or

H. Any other violation(s) or group of violations, including a violation of Best Management Practices, which the Director of Public Works determines will adversely affect the operation or implementation of the local pretreatment program.

31.35.130 Compliance Schedules

A Notice of Violation or Administrative Order may contain a compliance schedule. The following conditions shall apply to the schedule.

A. The schedule shall contain increments of progress or milestones in the form of dates for the commencement and completion of major events, including the construction and operation of additional pretreatment required for the industrial user to meet the applicable pretreatment standards or City local limits.

B. No increment referred to in paragraph (A) shall exceed nine months.

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

31.35.135 Search/Inspection Warrants

A. If the Director of Public Works has been refused access to a building, structure or property or any part thereof, and if the Director of Public Works has probable cause to believe that there may be a violation of City ordinance or that there is a need to inspect or sample as part of a routine inspection/sampling program of the City designed to verify

compliance with City ordinance or any permit or order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Director of Public Works may seek issuance of a search, seizure, or inspection warrant. In the event of an emergency affecting public health and safety, or if the user consents, inspections shall be made without the issuance of a warrant.

B. To the extent that the owner or possessor of the premises requires that a warrant be received, the City may, in its discretion, suspend the permit and/or any other right to discharge to sanitary facilities immediately, and such suspension may continue until such time as a warrant has been received and the inspection has been completed. If no violation of this Title or the permit, if applicable, is found, the suspension shall be lifted. In the event that violations of this Title or the permit, if applicable, are found, then the suspension may, at the discretion of the City, be continued or terminated, or other enforcement remedies may be sought.

C. The City may choose to inspect the facility to determine compliance with all standards as set forth in this Title or permit if applicable, and additionally, such inspections may be undertaken to verify the wastewater flows and strengths reported by the discharger.

31.35.140 Emergency Suspensions of Discharge

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

A. Any user notified of a suspension of its discharge shall immediately stop or eliminate its discharge. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Director of Public Works may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Director of Public Works may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Director of Public Works that the period of endangerment has passed, unless termination proceedings in Section 31.35.150 are initiated against the user.

B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Director of Public Works prior to the date of any show cause hearing.

C. After reasonably attempting to informally notify the user, the City may take all necessary steps to halt or prevent such discharge including, but not limited to plugging or physically disconnecting the user's access to the City sewer system.

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

31.35.150 Wastewater Discharge Permit- Revocation/Termination of Service

Wastewater discharge permits maybe revoked or user's service may be terminated when any provision of this Title are violated.

Such users will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 31.35.020 why the proposed action should not be taken. Exercise of this option by the Director of Public Works shall not be a bar to, or a prerequisite for, taking any other action against the user.

31.35.160 Upset

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

B. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (C), below, are met.

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

- (1) An upset occurred and the user can identify the cause(s) of the upset;
- (2) The facility was, at the time, being operated in a prudent and competent manner and in compliance with applicable operation and maintenance procedures; and
- (3) The user has submitted the following information to the Director of Public Works within 24 hours of becoming aware of the upset if this information is provided orally, a written submission must be provided within five days:
 - (a) A description of the indirect discharge and cause of noncompliance;
 - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

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

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

F. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

31.35.170 Bypass

A. For the purposes of this Section,

(1) Bypass means the intentional diversion of waste streams from any portion of a user's treatment facility.

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

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

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

(2) A user shall submit oral notice to the Director of Public Works of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass.

The Director of Public Works may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

C. Bypass is prohibited, and the Director of Public Works may take an enforcement action against a user for a bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate

back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or maintenance; and

(3) The user submitted notices as required under paragraph (B) of this Section.

D. The Director of Public Works may approve an anticipated bypass, after considering its adverse effects, if the Director of Public Works determines that it will meet the three conditions listed in paragraph (C) of this Section.

31.35.180 Affirmative Defense

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the prohibitions in Section 13.36.070 (except for Subsections 13.36.070(B)(1), (2), and (8)) if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

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

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

31.35.190 Disputes-Request for Ruling

If any user or applicant for a permit disputes the interpretation or application of this Title, it may request a ruling by the Director of Public Works, who will set forth his or her determinations on the request.

31.35.200 Appeals

A. If the discharger or applicant for a permit is dissatisfied with the decision, enforcement action or determination made by the Director of Public Works under Section 13.36.100, he may, within 30 days after receipt of said ruling by the Director of Public Works, appeal said ruling by giving written notice of the basis of his appeal to the the City Council. The appeal may be taken by any person aggrieved, by filing a written notice specifying the grounds for the appeal with the city clerk. Filing of an appeal shall stay all proceedings and furtherance of the action being appealed.

B. On notice by the city clerk that an appeal has been filed, the city manager shall, within 30 days, make available to the council all documents constituting the record upon which the action appealed was taken. All parties to the appeal may be represented. The City Council shall give notice in writing of the time and place at which a hearing will be held on an appeal any person requesting notice in writing.

C. The City Council shall conduct a public hearing on the appeal. All parties to the appeal may be represented. The City Council, at the conclusion of the hearing of any

appeal, shall make a final determination.

31.35.210 Fraud and False Statements

Pursuant to the provisions of 18 U.S.C. § 1001, relating to fraud and false statements, and the provisions of Section 309(c)(2) of the Act governing false statements, representations, or certification in reports required under the Act, any person who knowingly makes any false statements, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained for this Title, a wastewater discharge permit, or who falsifies or tampers with or knowingly renders inaccurate any monitoring device or method required under this Title, shall, upon conviction, be punished by a fine of not more than \$10,000 or imprisonment for not more than six months, or both.

31.35.220 Pretreatment Charges and Fees

The City may adopt reasonable fees for reimbursement of costs of setting up and operating the City's pretreatment program which may include:

- A. Fees for wastewater discharge permit applications including the cost of processing such applications;
- B. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
- C. Fees for reviewing and responding to accidental discharge procedures and construction;
- D. Fees for filing appeals; and
- E. Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this Title and are separate from all other fees, fines, and penalties chargeable by the City.

Section 3.

Chapter 13.40 Sewers-Permits, Chapter 13.41 Regulation of Waste Discharges, and Chapter 13.44 Sewers-Administration are repealed in their entirety and reenacted as Chapter 13.36 Pretreatment to read as follows:

CHAPTER 31.36

PRETREATMENT

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- 31.36.030 Minimum Standards
- 31.36.050 Wastewater Discharge Permit Classification

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- 31.36.070 Prohibited Discharge Standards
- 31.36.080 National Categorical Pretreatment Standards
- 31.36.090 State and Federal Pretreatment Standards
- 31.36.100 Local Limits
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31.36.010 Purpose and Policy

This Title sets forth uniform requirements for users of the POTW for the City and enables the City to comply with all applicable federal, state and local laws, including the Act and the General Pretreatment Regulations (40 CFR Part 403) or as amended.

31.36.030 Minimum Standards

User agencies which contribute to the City sewer facilities shall, at a minimum, comply with all of the requirements of this Title.

31.36.050 Wastewater Discharge Permit Classification

The Director of Public Works will classify all users in accordance with the principal activity conducted on the premises where the discharge occurs. The purpose of the classification is to facilitate regulation of discharges to the Subregional system on the basis of each user's waste quality, quantity, flow, and City involvement; to provide an effective means of source control of toxic substances; and to provide a basis for sewer use charges to insure an equitable recovery of capital and operating costs. User permit classifications are as follows:

- A. Nonresidential User. Users that discharge non-domestic wastewater to the sanitary sewer system and do not meet the criteria of SIU.
 - B. Zero Discharger. Users who do not discharge to the sanitary sewer system, except domestic wastewater, do not have pollutants resulting from any commercial or industrial process, have no floor drains, and do not generate wastewater.
 - C. Significant Industrial User. As defined in Section 31.34.030 of this Title.
 - D. Ongoing Groundwater Discharger. Users that discharge wastewater generated from groundwater remediation projects in excess of six months.
 - E. One Time Discharger. Users that discharge wastewater generated as a result of purging monitoring wells, dewatering underground storage tanks, groundwater sampling, or for a variety of other reasons for projects that will not exceed six months.
 - F. Waste hauler. Haulers that service domestic waste systems. Such systems include septic tanks, cesspools, chemical toilets, trailers, or campers.
- Residential users under normal circumstances will not be required to apply for or receive a wastewater discharge permit as defined in this Title, providing that said user discharges only domestic wastewater.

Article I - General Sewer Use Requirements

31.36.070 Prohibited Discharge Standards

A. General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through, interference, or is listed in the Specific Prohibitions in Section B below. These general prohibitions apply to all users

discharging to the POTW whether or not they are subject to categorical pretreatment standards or any other federal, state, or local pretreatment standards or requirements.

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

- (1) Pollutants which create fire or explosive hazard in the POTW, including but not limited to waste streams with closed cup flashpoint of less than 140° F (60° C) using test methods specified in 40 CFR Part 261.21 or as amended, or at any point in the POTW, of more than 10% of the Lower Explosive Limit on a combustible gas meter; or
- (2) Wastewater having a pH less than 5.0 or more than 12.0, or any substance causing corrosive structural damage to the POTW, or equipment as standardized in Test Methods for Evaluating Solid Waste, Physical/Chemical Methods SW-846, current edition; or
- (3) Solid or viscous pollutants in amounts or concentrations which will cause or threaten to cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than 1/4" or 0.635 cm in any dimension. The installation and use of garbage grinders (disposals) in commercial food establishments is prohibited, except in the case where a 1,000 gallon minimum interceptor is in use; [40 CFR Part 403.5(b)(3)] or as amended or
- (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW; [40 CFR Part 403.5(b)(4)] or as amended or
- (5) Wastewater having a temperature which will inhibit biological activity in the POTW resulting in interference, but in no case wastewater which causes the temperature at the POTW to exceed 104o F (40o C); [40 CFR Part 403.5(b)(5)] or as amended or
- (6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through; or
- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems; [40 CFR Part 403.5(b)(7)] or as amended; or
- (8) Trucked or hauled pollutants, except at discharge points designated by the POTW; [40 CFR Part 403.5(b)(8)] or as amended; or
- (9) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or exceed the limitation set forth in a categorical pretreatment standard. Toxic pollutants shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act or as amended; or

- (10) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life or are sufficient to prevent entry into the sewers for maintenance or repair; or
- (11) Any malodorous substance such as hydrogen sulfide or any other substance which will cause offensive odors in the sewer system or at the treatment plant; or
- (12) Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act or as amended, any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act or the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used; or
- (13) Any substance which will cause the POTW to violate the NPDES permit or Waste Discharge Requirements issued by the State; or
- (14) Any wastewater containing substances that may precipitate, solidify, or become viscous at temperatures capable of either causing obstruction to the flow in the sewers or interfering with the proper sewer system operation and maintenance; or
- (15) Any portions of the human anatomy; or
- (16) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the POTW's effluent, thereby violating the City's NPDES permit; or
- (17) Wastewater containing any radioactive waste or isotopes except in compliance with applicable state or federal regulations; or
- (18) Unpolluted wastewater including but not limited to storm water, surface water, groundwater, roof runoff, subsurface drainage, pool water, spa water, pond water, condensate, deionized water, non-contact cooling water or other, unless specifically authorized by the Director of Public Works; or
- (19) Sludges, screenings, or other residues from the pretreatment of industrial wastewater; or
- (20) Any infectious waste that is deemed a threat to the public health and safety, or will result in any violation of applicable waste discharge requirements shall be rendered noninfectious prior to discharge; or
- (21) Wastewater causing the POTW effluent to fail a toxicity test; or
- (22) Pollutants which create conditions which violate any statute, rule, regulation, or ordinance of any public agency relating to releases of hazardous

wastes, hazardous substances, or other pollutants to the environment when such release is to a publicly owned sanitary sewer; or

(23) Any substance which is not amenable to treatment by the processes employed at the POTW; or

(24) Any substance which may cause damage to City facilities; or

(25) Any slug loading; or

(26) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW; or

(27) Any of the following prohibited substances as tested according to approved 40 CFR 136 methods:

- a) Aldrin
- b) Benzidine and its salt
- c) BHC-Alpha
- d) BHC-Beta
- e) BHC-Gamma (Lindane)
- f) Chrysene
- g) DDD, DDE, and DDT
- h) Dieldrin
- i) Endrin
- j) Endosulfan II (B Endosulfan)
- k) Heptachlor
- l) Heptachlor Epoxide
- m) Phenanthrene
- n) Polychlorinated Biphenyl Compounds (PCBs)
- o) Tetrachloroethene, (Perchloroethylene, Perc)
- p) Toxaphene; or

(28) Any septic tank waste, holding tank waste, or portable toilet waste unless a permit is issued by the City and unless such sludge or waste is transported to the POTW by a permitted waste hauler in accordance with the regulations set forth within this Title; or

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

C. Compliance by existing sources with the National Categorical Pretreatment Standards shall be within three years of the date the standard is promulgated unless a shorter compliance time is specified in the appropriate subpart of 40 CFR, Chapter 1, Subchapter N or as amended. Upon the promulgation of the National Categorical Pretreatment Standards

for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this article for sources in that subcategory, shall immediately supersede the limitations imposed under this article. The Director of Public Works will notify all affected users of the applicable reporting requirements under 40 CFR Part 403.12 or as amended.

D. Other Prohibitions.

(1) No user shall discharge any wastewater directly into a manhole or other opening in the City sewage system other than through sewer laterals or other sewer connection approved by the Director of Public Works, unless a permit has been obtained for such discharge. A permit will only be issued for such direct discharge in the event the discharge is otherwise in compliance with provisions of this Title and no other alternative is reasonably available in the opinion of the Director of Public Works.

(2) Any discharge of sewage, industrial/commercial waste or other polluted waters into any storm drain or natural outlet.

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

(4) No person who owns operates or maintains a restaurant shall at any time discharge any wastewater to the storm drain, service dock areas, or ground. Wastewater generated by restaurants shall be disposed of through a sanitary sewer, and an approved grease removal device, interceptor, or sample station connected to a sanitary sewer or hauled off site and disposed at a legal disposal site.

(5) It shall be unlawful for any person to discharge the contents of a swimming pool or a spa into the City sewer system except in the manner specified herein. The size of pipe carrying discharge water shall not be larger than one inch and shall not be under a head to exceed 20 feet. If the water is discharged by pumping, the rate of flow shall not exceed 50 gallons per minute. Each swimming pool or spa discharging to a sanitary sewer shall be equipped with an approved air gap to preclude any possibility of a backflow of sewage into the swimming pool or spa piping system.

31.36.080 National Categorical Pretreatment Standards

A. The categorical pretreatment standards found in 40 CFR Parts 405-471 or as amended are hereby incorporated.

B Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Director of Public Works may impose equivalent concentration or mass limits in accordance with 40 CFR Part 403.6(c) or as amended.

C. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Director of Public Works shall impose an alternate limit using the combined wastestream formula or flow weighted average in 40 CFR Part 403.6 or as amended.

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

E. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR Part 403.13 or as amended.

31.36.090 State and Federal Pretreatment Standards

In the event that either state or federal requirement standards for discharge to the POTW are more stringent than the limitations, requirements, and standards set forth in this Title, the most stringent standards or requirements shall apply.

31.36.100 Local Limits

The following pollutant limits are established to protect against pass through and interference. No SIU or groundwater remediation shall discharge or cause to discharge, any wastewater containing in excess of the following daily maximum allowable discharge limits. In addition the Director of Public Works may apply all or some of the limits set forth below as the Director of Public Works deems appropriate and designates in the user’s permit.

1.	Antimony (T)*	133	mg/l
2.	Arsenic (T)*	0.47	mg/l
3.	Beryllium (T)*	0.5	mg/l
4.	Biochemical Oxygen Demand (BOD)	20,400	mg/l
5.	Cadmium (T)*	0.04	mg/l
6.	Chromium VI	0.1	mg/l
7.	Chromium (T)*	1.71	mg/l
8.	Copper (T)*	0.2	mg/l
9.	Cyanide (T)*	0.2	mg/l
10.	Lead (T)*	0.3	mg/l
11.	Mercury (T)*	0.0003	mg/l
12.	Nickel (T)*	1.51	mg/l
13.	Selenium (T)*	2.7	mg/l
14.	Thallium (T)*	3.9	mg/l
15.	Zinc (T)*	1.63	mg/l
16.	Ph	5.5 – 11.9	
17.	Silver	0.17	mg/l
18.	Total Toxic Organics (TTO)**	2.13	mg/l
19.	Total Suspended Solids (TSS)	9,800	mg/l
20.	TPH Gas and Diesel	100	mg/l
21.	Total Dissolved Solids	5,200	mg/l
22.	Total Kjeldahl Nitrogen (TKN)	2,600	mg/l
23.	BTEX***	2.0	mg/l

- * T =Total; mg/l = milligrams per liter
- ** Federal Register List from 40 CFR 131 Subpart D - Total Toxic Organics less pesticides and dioxins
- *** Groundwater remediation and cleanup projects, BTEX=Benzene, Toluene, Ethylbenzene, Xylene

The above limits apply at the point where the wastewater is discharged to the POTW. The Director of Public Works may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

The Director of Public Works may allow the SIU to discharge in excess of local limits when, at the discretion of the Director of Public Works, the SIU has implemented all applicable Best Management Practices adopted by the City.

31.36.110 City's Right of Revision

The City reserves the right to establish, by ordinance, resolution, or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

31.36.120 Dilution

No industrial user shall increase the use of process water or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Director of Public Works may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when , in the opinion of the Director of Public Works, the imposition of mass limitation is appropriate.

31.36.130 Vandalism/Tampering

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, or tamper with any monitoring equipment so as to cause alteration of the sampling analysis or readings or cause damage or destruction of equipment being utilized to determine compliance with this Title. Tampering with a City-installed meter may be subject to fines in accordance with this Title.

31.36.150 Seasonal Flow

Seasonal flow is defined as an industrial wastewater discharge during any 13 day period during which the average volume and/or strength of any regulated wastewater characteristic exceeds the respective yearly averages by 50%. Seasonal flow dischargers shall be subject to wastewater treatment plant service capacity allocation by the Director of Public Works. If overloading conditions occur or threaten to occur at the treatment plant or if unused service capacity is insufficient to accommodate all seasonal flows, the Director of Public Works may allocate available service capacity among all seasonal dischargers. In

allocating the flow or constituent load, the Director of Public Works shall take into account the discharger's non-seasonal flow, wastewater conservation practice, economic and environmental impact, historical data, and any other consideration advanced by the discharger which will help the Director of Public Works make an equitable allocation.

31.36.170 Unusual Conditions

Notwithstanding any provision of this Title to the contrary, the City Council and any person may enter into an agreement where unusual conditions compel special terms and conditions and charges for the interception, treatment and disposal of an industrial wastewater necessary to meet the purposes of this Title. In no event, however, may the National Categorical Pretreatment Standards referred to in Section 31.36.080 of this Title, or as amended or any other federal or state standard, be relaxed or waived.

31.36.175 Temporary Suspension

A wastewater discharge permit may be temporarily suspended by the Director of Public Works at any time if, in his or her opinion, the continued discharge of the waste or water into the sewer system would, when combined with other discharges into the sewer system, exceed the City's allocated capacity service in the Subregional system, substantially jeopardize the ability of the treatment system to meet water quality requirements or would cause an unsafe condition to occur. In lieu of temporary suspension of permits, the Director of Public Works may impose such temporary restrictions, conditions, or limitations upon the quantities, qualities, and rates of discharge made there under as deemed necessary to assure that said receiving water quality requirements will not be violated by the discharge to the POTW, or to alleviate the unsafe condition. In addition, the may suspend a wastewater discharge permit at any time if he/she deems said suspension necessary to halt or prevent a discharge that has the potential to endanger human lives and/or injure the environment.

31.36.180 Notice of Suspension

Notice of the temporary suspension or the imposition of temporary restrictions, conditions, or limitations shall be given in writing by the Director of Public Works to the user at least 24 hours prior to their effective date. Delivery of said notice to the user's place of business within the City shall constitute delivery of notice to user. In circumstances where the Director of Public Works deems it necessary to suspend a wastewater discharge permit in order to prevent potential danger to human life and/or injury to the environment, or in any circumstance that would cause a violation of the treatment plant's NPDES permit, no notice pursuant to this Section is required.

31.36.190 Slug Control Plan

A. The Director of Public Works may require any SIU or other user to develop a slug control plan. Before issuance of a wastewater discharge permit, the Director of Public

Works shall determine whether a user needs such a plan. Any user required to develop and implement slug control plan shall submit, 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 Director of Public Works of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the prohibited discharges.
- (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

B. In the case of an accidental spill/or slug discharge, refer to Section 31.36.510-Reports of Potential Problems.

31.36.200 Separation of Domestic and Process Wastestream

All domestic wastewater (i.e., restrooms, showers, drinking fountains) shall be separated from process wastewater until the process wastewater has passed through a required pretreatment system and/or the user's monitoring facility. When directed to do so by the Director of Public Works, users shall separate existing domestic wastewater from process wastestream.

31.36.210 Hauled Wastewater

A. Septic tank waste may be introduced into the POTW only at locations designated by the Director of Public Works, and at such times as are established by the Director of Public Works. Such waste shall not violate any requirements established by the City. The Director of Public Works will require septic tank waste haulers to obtain wastewater discharge permits.

B. The Director of Public Works shall require haulers/generators of industrial wastewater to obtain wastewater discharge permits. The Director of Public Works also may prohibit the disposal of hauled industrial wastewater. The discharge of hauled industrial wastewater is subject to all other requirements of this Title.

C. Industrial wastewater haulers shall discharge loads only at locations designated by the Director of Public Works. No load may be discharged without prior consent of the Director of Public Works. The Director of Public Works may collect samples of each hauled load to ensure compliance with applicable standards. The Director of Public Works may require the industrial wastewater hauler/generator to provide a waste analysis of any load prior to discharge.

D. Septic and/or industrial wastewater haulers shall provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial

wastewater hauler, permit number, truck identification, names and addresses of sources of waste, volume, and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents.

E. Hauled groundwater discharges shall be subject to the criteria set forth in this Section.

F. Trucked wastes of commercial and/or industrial origin which are generated outside of the Subregional Service Area (Cotati, Sebastopol, Santa Rosa, Rohnert Park, South Park Sanitation District) may be accepted for disposal with the prior approval of the Director of Public Works.

G. Trucked domestic septic tank wastes originating from outside the boundaries of Sonoma County will not be accepted for disposal.

31.36.215 Clean-up and Remediation Projects

Waste generated from the cleanup of spills, leaking underground storage tanks, contaminated soil or groundwater, monitoring wells, or other similar sources shall not be discharged through direct or indirect connection to the City sewer system unless a temporary permit or a wastewater discharge permit is issued by the Director of Public Works. The Director of Public Works may approve the discharge of such wastewater and issue such a permit only when, in its judgment, no reasonable alternative method of disposal is available and the City's facilities will not be significantly affected.

If a temporary discharge permit is granted for the discharge of such wastewater, the user shall pay such fees and charges and meet such special conditions and requirements, as determined by the Director of Public Works, to specifically apply for that particular discharge.

31.36.220 Disposal of Pretreatment Sludge

Any sludge or other material removed from the industrial wastewater by the pretreatment facility shall be disposed of in accordance with applicable federal, state and local laws.

Article II - Wastewater Discharge Permit Application Process

31.36.230 Wastewater Discharge Permit

A. No SIU or non-residential user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Director of Public Works, except when the SIU has filed a timely application and their wastewater discharge permit is pending finalization.

B. The Director of Public Works may require other users to obtain a wastewater discharge permit as necessary to carry out the purposes of this Title.

C. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this Title. Obtaining a wastewater discharge permit does not relieve a user of its obligation to comply with all federal and state pretreatment standards or requirements with any federal, state and local law.

31.36.240 Authorization to Discharge

The wastewater discharge permit expressly authorizes a user to discharge wastewater to the POTW and is issued for that purpose. If, for any reason, a wastewater discharge permit is revoked, suspended, or otherwise held invalid, authorization to discharge is terminated and the user shall cease all discharge.

31.36.250 Wastewater Discharge Permit/Existing Conditions

Any non-permitted user not required to obtain a wastewater discharge permit, who was discharging to the POTW prior to the effective date of this Title, and who wishes to continue such discharges in the future, shall, within 30 days after the effective date of this Title, apply to the Director of Public Works for a wastewater discharge permit in accordance with this Title. The user shall not cause or allow discharges to the POTW to continue after 30 days of the effective date of this Section except in accordance with a wastewater discharge permit issued by the Director of Public Works. Permits issued by the Director of Public Works, pursuant to prior pretreatment requirements, shall remain valid for their stated terms or until terminated or amended pursuant to this Title.

31.36.260 Wastewater Discharge Permit/New Connections

Any user who is required to obtain a wastewater discharge permit and who proposes to begin or recommence discharging into the POTW shall obtain such permits prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit shall be filed a minimum of 60 days prior to the date upon which any discharge will begin or recommence. All new industrial users shall arrange for the Director of Public Works to conduct a walk-through site inspection of the user's facilities during the 60 day period prior to connecting or contributing waste or wastewater to the City's sewer system.

31.36.270 Regulation of Waste Received from Other Jurisdictions

A. Any existing user located outside the Cotati City limits and discharging into the Subregional system shall submit a wastewater discharge permit application within 90 days of the effective date of this Section, or in the case a valid permit exists and does not violate any part of this Title, shall not have to reapply until the permit expiration date. New users located the City limits and discharging to the Subregional system shall submit such applications to the Director of Public Works at least 60 days prior to any proposed discharge into the POTW.

B. Alternately, the Director of Public Works 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 said users.

31.36.280 Wastewater Discharge Permit Application Contents

The Director of Public Works may require all users to submit either independently, or as part of an application, the following information:

A. Identifying information: The name and address of the facility, including the name of the operator and owner.

B. General Facility Description: SIC numbers, hours of operation, principle business activities, products produced and/or services provided at this facility, number and type of employees, and proposed or actual hours of operation.

C. Environmental Control Permits: A list of any environmental control permits held by or for the facility including permitting agency, permit type, and identification number.

D. Description of Operations: Facilities and plant operations/processes, wastewater generating activities, type and amount of raw materials processed (average and maximum per day) and disposal methods, each product produced by type, amount, process or processes, and rate of production, time(s), and duration of all process discharges.

E. Facility Layout: Facility layout including floor plans, mechanical and plumbing plans, process flow, and details to show all sewers, floor drains, and appurtenances by size, location and elevation and discharge locations.

F. Flow Measurement: Measured average and maximum daily flow, monthly average, and seasonal variations of wastewater flow rates in gallons per day to the City sewer system from regulated process streams and other streams as necessary to use the combined wastestream formula or flow weighted average formula.

G. Pollutant Measurement: Wastewater constituents and characteristics, including any pollutants in the discharge which are limited by any federal, state, or local standards, or pretreatment standards applicable to each regulated process; and nature and concentration (or mass if pretreatment standard requires) of regulated pollutants in each regulated process (daily maximum and average concentration or mass when required by a pretreatment standard). Sampling and analysis will be undertaken in accordance with 40 CFR Part 136.

H. Compliance Certification: A certification statement reviewed by an authorized representative of the user and certified by a qualified professional indicating whether or not the pretreatment standards are being met on a consistent basis, and if not, whether additional operation and maintenance and/or additional pretreatment is necessary for the user to meet pretreatment standards and requirements. [40 CFR Part 403.12(b)(6)]

I. Other Information: Any other information as may be deemed by the Director of Public Works to evaluate the permit application. Incomplete or inaccurate applications will not be processed and will be returned to the industrial user for revision.

31.36.285 Application Signatories and Certification

All wastewater discharge permit applications shall be signed by a responsible corporate officer, general partner, proprietor, or duly authorized representative of the user and contain the following certification statement: [40 CFR Part 403.12(l) or as amended.]

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." [40 CFR Part 403.6(a)(2)(ii) or as amended.]

31.36.290 Wastewater Discharge Permit Decisions

The Director of Public Works will evaluate the data furnished by the user and may require additional information. Within 60 days of receipt of a complete wastewater discharge permit application, the Director of Public Works will determine whether or not to issue a wastewater discharge permit and the Director of Public Works may deny any application for a wastewater discharge permit.

Article III - Wastewater Discharge Permit Issuance Process

31.36.300 Wastewater Discharge Permit Issuance Process

A. No connection to the City sewer system shall be made until the connection has been approved by the Director of Public Works. The owner of the premises to be served shall provide all information required by the Director of Public Works, supplemented by any plans, specifications, or other information which, in the judgment of the Director of Public Works, is pertinent to the location and use of the premises. Separate connections may be required for each building of a single premises or for separation of industrial wastewater from sanitary sewage.

B. The Wastewater Discharge Permit shall be issued upon final inspection and acceptance of construction of the connection and, when required, upon the application and issuance of a wastewater discharge permit.

31.36.310 Wastewater Discharge Permit Duration

Each wastewater discharge permit will indicate a specific date upon which it will expire. The user shall apply for a wastewater discharge permit re-issuance a minimum of 90 days prior to the expiration of the user's existing wastewater discharge permit. Expiration of

a wastewater discharge permit does not relieve the discharger of requirements outlined in their existing wastewater discharge permit.

A. Industrial Wastewater Discharge permits and Ground Water Remediation Discharge permits shall be issued for a specified time period, not to exceed five years from the effective date of the wastewater discharge permit.

B. A Non-residential Wastewater Discharge permit shall be issued for a specified time period, not to exceed six years from the effective date of the wastewater discharge permit.

31.36.340 Wastewater Discharge Permit Contents

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Director of Public Works to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

A. Wastewater discharge permits will contain provisions, requirements, and standards appropriate to carry out the objectives of this Title, including but not limited to the following:

- (1) A statement that indicates wastewater discharge permit duration, which shall not exceed five years for SIU and Categorical Users
- (2) A statement that the wastewater discharge permit is nontransferable. Any new user must apply for a new wastewater discharge permit and receive prior approval from the Director of Public Works before discharging to the sewer;
- (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 pretreatment standards;
- (5) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the time for compliance beyond that required by applicable federal, state, or local law;

B Wastewater discharge permits may contain provisions, requirements, and standards appropriate to carry out the objectives of this Title , including but not limited to the following:

- (1) Limits on the average and maximum wastewater constituents and characteristics. These limits may be based on pollutant concentration and/or mass and may include prohibitions on discharge of said pollutants;
- (2) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(3) Implementation of Best Management Practices or Best Available Technology as determined by the Director of Public Works.

(a) 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 treatment works;

(b) Requirements for the development and implementation of spill control plans, Toxic Organic Management Plan or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;

(c) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(d) Requirements for installation and maintenance of inspection, sampling and flow metering facilities, and other related monitoring equipment and 3 years of records retention;

(e) A statement that compliance with the wastewater discharge permit does not relieve the user of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit;

(f) Requirements for reporting compliance schedules, self-monitoring, change in conditions, change in discharge including slug loads, bypass, process changes and chemical changes and automatic resampling;

(g) The prohibition of dilution as partial or complete substitute for adequate pre-treatment to achieve compliance with permit conditions;

(h) Signatory requirements specifying the responsible corporate officer for the industrial user;

(i) Other conditions as deemed appropriate by the Director of Public Works to ensure compliance with this Title, and state and federal laws, rules, and regulations or the terms of the permit.

31.36.360 Wastewater Discharge Permit Modification

The Director of Public Works may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

A. To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

- D. Information indicating that the permitted discharge poses a threat to the POTW, personnel, or the receiving waters;
- E. Violation of any terms or conditions of the wastewater discharge or this Title;
- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR Part 403.13; or
- H. To correct typographical or other errors in the wastewater discharge permit.

The filing of a request by the user for a permit modification does not stay any permit condition.

31.36.380 Wastewater Discharge Permit Transfer

Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation. However, nothing in this Section shall be construed to prevent the application of the terms and conditions of this Title, including enforcement penalties, from applying to a succeeding owner, successor in interest, or other assigns of an existing contract or wastewater discharge permit holder.

31.36.410 Wastewater Discharge Permit Appeals

The Director of Public Works shall provide notice of the issuance of a wastewater discharge permit to the applicant. Any permit applicant or user (aggrieved party) may petition the Director of Public Works to reconsider the terms of a wastewater discharge permit—within 30 days of notice of its issuance. Aggrieved parties may seek an administrative appeal under Section 31.35.200.

Article IV - Analysis Requirements

31.36.420 Wastewater Survey

The Director of Public Works may periodically require users to submit information or update information on the nature and characteristics of its wastewater. Failure to submit this survey information within 30 days of the request shall be considered a violation of this Title.

31.36.430 Sampling

The Director of Public Works may periodically require any user to sample their wastewater discharge or submit to the wastewater sampling by the Director of Public Works in establishing the appropriate class of the user and/or to evaluate compliance with the standards and requirements of this Title.

A. Sample Collection Except as indicated in paragraph (B), below, the user shall collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Director of Public Works may authorize the use of time proportional sampling or grab sampling over the production day where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with daily maximum discharge limits.

B. Samples should be taken for Federal 40 CFR limits, for Categorical Industries immediately downstream from pretreatment facilities if such exist, or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user shall measure the flows and concentrations necessary to allow use of the combined wastestream formula in order to evaluate compliance with the pretreatment standards.

31.36.450 Contents of Reports on Sampling and Analysis

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

B. Reports, signed and certified by a duly authorized representative of the industrial user, as set forth in 40 CFR Part 403.6(a)(2)(ii) and 40 CFR Part 403.12(1) or as amended, shall certify that such sampling and analysis are representative of normal work cycles and expected pollutant discharges to the POTW and shall contain the following information:

- (1) The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;
- (2) Sample preservation used;
- (3) The dates analyses were performed;
- (4) Chain of custody of the sample;
- (5) Name and contact of person that performed the analyses;
- (6) The analytical techniques/methods used; and
- (7) The results of such analyses.

31.36.460 Analytical Requirements

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

Article V - Reporting Requirements

31.36.470 Baseline Monitoring Reports

All categorical users shall submit to the City a baseline report within 180 days of the effective date of this Section or 180 days after final administrative decision on a category determination, whichever is earlier. The baseline report shall contain the information specified in 40 CFR Part 403.12(b) or as amended. The information required for application for a permit and/or modification of a permit may fulfill the requirements of the baseline report. If in submitting information to apply for or to modify a permit, the categorical user also intends to fulfill the requirements for the baseline report, the categorical user shall so state.

31.36. 475 Compliance Schedule Progress Reports

The user shall submit a progress report to the Director of Public Works no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule.

31.36.480 Reports 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 POTW, any user subject to such pretreatment standards and requirements will submit to the Director of Public Works a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards or requirements, the average and maximum daily flow for these process units, and the actual average production rate for these process units. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR Part 403.6(c) or as amended, this report will contain a reasonable measure of the user's long-term production rate. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operational and maintenance changes and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements.

This statement shall be signed by an authorized representative of the industrial user and a certified qualified professional. Filing of this compliance report cannot relieve the user of any fines, civil penalties, or other liability which may be imposed by this Title or other applicable law, or failure to meet the applicable pretreatment standards or requirements subsequent to the date for final compliance with such applicable standard.

31.36.490 Periodic Compliance Reports

A. All Significant Industrial Users shall, at a frequency determined by the Director of Public Works, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards or requirements and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports shall be signed and certified in accordance with 40 CFR Part 403.6(a)(2)(ii) or as amended. The report shall contain a description of the methods utilized by the user in collecting the wastewater sample for analysis, including but not limited to the sampling device(s) used, the sampling period, the amount of each sample collected, sample handling and preservation techniques used, and date of sample delivery to the laboratory for analysis.

B. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities will be properly operated, cleaned, calibrated, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order is a violation and 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 Director of Public Works, using the procedures prescribed in this Title, the results of this monitoring will be included in the report.

D. In the event a sample from a periodic compliance report indicates that a constituent is in violation of the allowable concentration levels as set forth in the user's permit or permit contract, the user shall inform the City within the next business day, repeat the sampling and pollutant analysis for the parameter in violation, and submit in writing the results of this second analysis within 30 days of the discovery of the first violation. The initial sampling and analysis report shall be submitted within 45 days of the initial sampling date with a cover report setting forth the causes of the violation, the remedial actions taken to date with regard to the violation, and the scheduled additional actions which will be implemented to prevent a recurrence.

E. The Director of Public Works may also, at any time, require a signed statement by the user setting forth management practices and/or material usage practices which have an affect on the nature, volume, and quality of the wastewater discharge and/or which potentially will affect the ability to comply with pretreatment standard requirements.

F. When required by the Director of Public Works, an industrial user shall submit a report indicating the concentration of specific pollutants discharged in the effluent. The determination of said pollutants by the Director of Public Works shall be based on what is reasonably expected to be found at the site and the frequency of monitoring shall be based on the compliance status of the industrial user.

G. Periodic Compliance Reports may be waived by the Director of Public Works if the City is monitoring the user discharge.

31.36.510 Reports of Potential Problems

A. In the case of any discharge including, but not limited to, accidental discharges, discharges of a non-routine or episodic nature, a non-customary batch discharge or a slug load which may cause potential problems for the POTW (including a violation of the prohibited discharge standards of this Title), it is the responsibility of the user to immediately notify the Director of Public Works of the incident. This notification shall include the location of discharge, type of waste, concentration and volume (if known), and corrective actions taken by the user.

B. Within five days following an accidental discharge, the user shall, unless waived by the Director of Public Works, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar or future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the system, natural resources, or any other damage to persons or property. Nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this Title.

C. Failure to notify the City of potential problem discharges shall be deemed a violation of this Title.

D. A notice shall be permanently posted, advising employees of calling procedures in the event of a discharge described in paragraph (A) above. Employers shall ensure that all employees are advised of the emergency notification procedure and containment procedures.

E. The City has the authority to deny or condition new or increased contributions of pollutants or changes in the nature of pollutants to the POTW by permitted and non-permitted users where such contributions do not meet applicable pretreatment standards or requirements or where such contributions would cause the POTW to violate its Waste Discharge Requirements.

31.36.520 Reports from Un-Permitted Users

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Director of Public Works if required by the Director of Public Works.

31.36.540 Reports of Changed Conditions

Each user shall notify the Director of Public Works 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 60 days before the change.

A. The Director of Public Works may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application as required by this Title.

B. The Director of Public Works may issue a wastewater discharge permit as required by this Title or modify an existing wastewater discharge permit.

C. No user shall implement the planned changed condition(s) until or unless the Director of Public Works has responded to the user's notice.

D. For purposes of this requirement, flow increase of 20% or greater, and the discharge of any previously unreported pollutants, shall be deemed significant.

Article VI - Compliance Monitoring

31.36.550 Monitoring Facilities

A. Users shall install sampling and/or monitoring equipment, including manholes, as necessary or required. The user's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at the user's own expense. All devices used to determine wastewater flow and quality shall be calibrated, at a frequency to be determined by the Director of Public Works, to ensure their accuracy. The sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable construction standards and specifications. Construction and installation shall be completed within 90 days following written notification by the Director of Public Works unless a time extension is granted by the Director of Public Works.

B. Location of Equipment. The sampling and monitoring equipment shall be situated on the user's premises, but the Director of Public Works may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed or installed in the public right-of-way and located so that it will not be obstructed by landscaping or parked vehicles. The user shall obtain an encroachment permit from the City prior to any construction or installation in the public right-of-way.

C. Access to Equipment. If the monitoring facility is inside the user's fence, there shall be accommodations to allow access for City personnel, such as a gate secured with a City lock. There shall be ample room in or near such sampling manhole to allow accurate sampling and compositing of samples for analysis.

D. Effluent Meter and Composite Sampler. New industrial users or existing users planning a remodel of existing process facilities and/or pretreatment system which contribute high strength wastewater to the POTW shall install a non-resettable totalizing effluent meter and a flow proportioned composite sampler which is controlled by a flow meter.

E. Provisions for Existing Users. Existing industrial users shall be subject to the provisions of this Section at the discretion of the Director of Public Works.

F. Plan Review. Detailed plans showing the operation and proposed installation of all monitoring and/or sampling equipment shall be submitted to the City for review and shall be acceptable to the Director of Public Works before installation of the equipment. Any subsequent changes to any sampling and/or monitoring equipment shall be reported to and be acceptable to the Director of Public Works.

31.36.560 Pretreatment Facilities

A. Where required in the waste discharge permit or by State or Federal laws and regulations, the discharger shall provide, operate and maintain, at his expense, such

preliminary treatment or controls as may be necessary to eliminate or reduce the objectionable characteristics, constituents, or quantities and rates of discharge to conform to the maximum limits provided for in the permit.

B. Plans, specifications, and any other pertinent information related to proposed pretreatment facilities and operating procedures shall be submitted for the approval of the Director of Public Works. Construction of such facilities shall not commence until said approval is obtained in writing, and use of such facilities shall not commence until completed facilities are approved in writing. Pretreatment facilities shall be continuously maintained in satisfactory and effective operating condition to the satisfaction of the Director of Public Works.

31.36.565 Additional Pretreatment Measures

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

B. From time to time the City may adopt Best Management Practices for activities and/or industries. In these cases, users may employ the adopted Best Management Practices in lieu of application of other pretreatment technologies, when approved by the Director of Public Works.

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

31.36.566 Grease Removal Devices

Grease, oil, and sand interceptors or other grease removal device shall be provided by the user when, in the opinion of the Director of Public Works, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity acceptable to the Director of Public Works and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense. The user shall keep and maintain records that document all cleaning, repair and proper disposal from all such interceptors for the preceding three years. Such records shall be kept on the site for review by the Director of Public Works.

31.36.567 Amalgam Separators

The Director of Public Works may specify additional requirements for dental facilities that remove or place amalgam fillings.

A. All users of and dischargers from dental facilities that remove or place amalgam fillings shall comply with the following waste management practices:

- (1) No person shall rinse chair-side traps, vacuum screens, or amalgam separator equipment in a sink or other connection to the sanitary sewer.

(2) Users of and dischargers from dental facilities shall ensure that all staff members who handle amalgam waste are trained in the proper handling, management, and disposal of mercury-containing material and fixer-containing solutions, and shall maintain training records that shall be available for inspection by the Director of Public Works during normal business hours.

(3) Amalgam waste shall be stored and managed in accordance with the instructions of the recycler or hauler of such materials.

(4) Bleach and other chlorine-containing disinfectants shall not be used to disinfect the vacuum line system.

(5) The use of bulk mercury is prohibited. Only pre-capsulated dental amalgam is permitted.

B. All users of and dischargers from dental vacuum suction systems, except as set forth in paragraphs (C) and (D), below, shall comply with the following:

(1) An ISO 11143 certified amalgam separator or comparable device shall be installed for each dental vacuum suction system on or before one year of the effective date of this title provided, however, that all dental facilities that are newly constructed on and after the effective date of this Title shall include an installed ISO 11143 certified amalgam separator or comparable device. The installed device must be ISO 11143 certified as capable of removing a minimum of 95% of amalgam. The amalgam separator system shall be certified at flow rates comparable to the flow rate of the actual vacuum suction system operation. Neither the separator device nor the related plumbing shall include an automatic flow bypass. For facilities that require an amalgam separator that exceeds the practical capacity of ISO 11143 test methodology, a non-certified separator will be accepted, provided that smaller units from the same manufacturer and of the same technology are ISO-certified. Alternative materials and methods may be proposed to the Director of Public Works for approval.

(2) Proof of certification and installation records shall be submitted to the Director of Public Works within 30 days of installation.

(3) Amalgam separators shall be maintained in accordance with manufacturer's recommendations. Installation, certification, and maintenance records shall be available for immediate inspection upon request by the Director of Public Works during normal business hours.

C. Facilities with vacuum suction systems that meet all of the following conditions may apply to the Director of Public Works for an exemption to the requirements of paragraph (B), above:

(1) The system was installed before the effective date of this title.

(2) The system is a dry vacuum pump system with an air-water separator.

(3) The sedimentation tank is non-bottom draining, with the drain above the anticipated maximum level of accumulated sludge.

(4) Evidence of regular pump outs (a minimum of once a year, or more often if either directed by the manufacturer or necessary to keep solids from exiting through the drain) is maintained and open to inspection by the Director of Public Works during normal business hours.

(5) The system has no direct discharge pipe to the sewer on the bottom of the sedimentation tank.

D. The following types of dental practice are exempt from this Section, provided that removal or placement of amalgam fillings occurs at the facility no more than three days per year: orthodontics, periodontics, oral and maxillofacial surgery, radiology, oral pathology or oral medicine, and endodontistry and prosthodontistry.

E. Any user or discharger whose facility meets all five conditions in paragraph (C), above, may apply for an exemption by written letter to the Director of Public Works. The Director of Public Works will review the system and, if the exemption is approved, shall provide a written letter of exemption. An exemption obtained pursuant to paragraph (C) of this Section shall expire upon installation of a new vacuum system. Upon expiration of the exemption, the facility shall comply with paragraph (B) of this Section before commencing further operation.

31.36.570 Right of Entry - Inspection and Sampling

The Director of Public Works shall have the right to enter the premises of any user announced or unannounced, to determine whether the user is complying with all requirements of City ordinances and any wastewater discharge permit or order issued hereunder. Users shall allow the Director of Public Works ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

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

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

C. The Director of Public Works may require the industrial user to install monitoring equipment, as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its expense. The Director of Public Works may require the installation of such facilities on the premises of the user at a location which will be accessible to the Director of Public Works at all times. All devices used to measure wastewater flow and quality shall be calibrated and certified periodically to ensure their accuracy.

D. 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 Director of Public Works and shall not be replaced. The costs of clearing such access shall be the responsibility of the user.

E. When the owner of premises fails to comply with an order to cease and desist, allowing the entrance of surface or subsurface drainage water from the owner's premise to the City sewer system, the Director of Public Works shall have the right to enter the premises and to block the flow of drainage water.

F. Unreasonable delays in allowing the Director of Public Works access to the user's premises shall be a violation of this Title.

31.36.580 Unmetered waste flows

Sewage and industrial wastewater flows from nonresidential and industrial users not required to install control manholes shall be determined as follows:

A. For premises where no significant portion of the water received from any source is consumed in the principal activity of the user, or is removed from the premises by means other than the sewerage system, the volume of waste flow shall be equal to the total volume of water used from all sources. Water received from each source shall be determined by the registration shown in the corresponding water meter.

B For premises where a portion of the water received from any source does not flow into the sewerage system, either because of the principal activity of the user or because of its removal by other means, the volume of waste flow shall be equal to the volume of water used from all sources less the volume of water removed by the user's activity. Water received from each source, as well as water removed, shall be determined by the registration shown in the corresponding water meters or by other means approved by the Director of Public Works.

C. All meters required in subsections (A) and (B) of this section shall be installed in accordance with City standards at the user's expense. Existing private meters installed by the user prior to the effective date of the ordinance codified in this section shall continue in service until they are required to be replaced. Upon the Director of Public Works' determination that the meter requires replacement, the user shall pay a one time fee to have a City-maintained meter installed. A monthly service charge will be assessed to the user to cover City meter reading and maintenance costs.

31.36.610 Timing

Written reports and notices pursuant to this Title will be deemed to have been submitted or given on the date postmarked. For reports and notices which are not mailed, the date of receipt of the report or notice will govern.

31.36.620 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 will 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 five years. This period will 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 Director of Public Works.

31.36.630 Confidential Information

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the Director of Public Works' inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests in writing, and is able to demonstrate to the satisfaction of the Director of Public Works, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available immediately upon request to governmental agencies for uses related to this Title, the National Pollutant Discharge Elimination System (NPDES) program, and in enforcement proceedings involving the person furnishing the report. In addition, such information and date may be withheld from disclosure if otherwise exempt from disclosure under State or Federal law. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR Part 2.302 or as amended, will not be recognized as confidential information and will be available to the public without restriction.

Section 4.

Chapter 13.38 Construction of Sewers and Sewer Connections is repealed in its entirety and reenacted as Chapter 13.37 Construction of Sewers and Sewer Connections to read as follows:

Chapter 31.37

CONSTRUCTION OF SEWERS AND SEWER CONNECTIONS

Sections:

- 31.37.010 Standards for the Evaluation of Applications
- 31.37.015 Procedures for Approval of Applications of Sewer Services
- 31.37.020 Construction of sewers and sewer connections—Permit—Compliance required
- 31.37.025 Discovery and Repair of Illegal Connections
- 31.37.030 Annexation Fees
- 31.37.040 Connection fees—Major users
- 31.37.045 Additional Fees
- 31.37.050 Demand fees—Computation—Time of payment
- 31.37.080 Privately constructed lines—Approval required
- 31.37.100 Disconnection for noncompliance
- 31.37.120 Termination upon notice
- 31.37.130 Agreements to comply with City regulations
- 31.37.140 Connections outside City—Compliance with City regulations
- 31.37.150 Cash guarantee deposit requirement
- 31.37.200 Provisions of other Ordinances

31.37.010 Standards for the Evaluation of Applications

The City Council shall from time to time establish, by ordinance, standards for the evaluation of applications for connection to the sewer system. Such standards shall include, but not be limited to, any of the following:

- A. The total amount of average daily sewer effluent flow that may be discharged by any premises;
- B. The total amount of average daily sewer effluent flow of equivalent units thereof that may be discharged by projects and connected after the effective date of the ordinance codified in this chapter in any one year or portion or multiple thereof;
- C. The number and types of water-using appliances that may be connected to the sewer system by any one project or portion thereof;
- D. Such satisfactory procedures as may be necessary for evaluation and approval, approval with conditions, or denial of the application.

31.37.015 Procedures for Approval of Applications of Sewer Services

A. Anticipated average daily sewer effluent for each premises to be connected to the city's sewer system shall be determined based upon but not limited to the information provided by the applicant and standards contained in "Resolution No. 74-31 of the Cotati City Council Adopting Procedures for Processing of Applications, Establishing Standards for Connection to the Sewer System and Establishing Application and Connection Fees."

B. The city shall notify all applicants of the sewer allocation limits applicable to the premises proposed for connection, and shall indicate the impact of such limitations upon projects and premises proposed for connection.

C. Based upon the information considered pursuant to subsection A of this section, approval, approval with conditions, or denial of the application shall be given in writing to the applicant and to the building official no later than either thirty days from the date of submission of the application, or the date of design review approval by the planning commission, whichever occurs later.

31.37.020 Construction of sewers and sewer connections—Permit—Compliance required

A. No unauthorized person shall uncover, make any connection with or opening into, or use, alter or disturb any public sewer or appurtenances thereof without first obtaining a written permit from the Director of Public Works and any other appropriate permits required to comply with this Title, and applicable laws, regulations and policies.

B. If the City has previously installed a sewer service lateral, the City may charge the applicant for the actual cost of the existing lateral in lieu of requiring the applicant to install a service lateral.

C. All construction of public sanitary sewers, or of sewers to become public sanitary sewers, or of sewer service laterals shall conform to the design criteria and the standard plans and specifications, as adopted by the City, and shall be subject to inspection and testing for sanitary sewers in accordance with current City standards.

D. No connection to a sewer interceptor or to the sewer treatment plant of the Santa Rosa Subregional system shall be permitted except by the City.

E. No project shall be connected to the city's sewer system unless and until each

and every condition for issuance of a final certificate of occupancy is granted pursuant to the building permit.

31.37.025 Discovery and Repair of Illegal Connections

No person shall make connection of roof downspouts, areaway drains, foundation drains, or other sources of surface water runoff or groundwater to a sewer service lateral which in turn is connected, directly or indirectly, to a public sanitary sewer.

A. As part of its periodic construction and maintenance of sewer mains or laterals, the City may discover illegal connections of roof downspouts, areaway drains, foundation drains or other sources of surface water runoff or groundwater. The City may order the property owner to remove the illegal connection and inspect, repair or replace any lateral or portion of the lateral that has been affected by the illegal connection.

B. In the absence of a specific deadline established by the Director of Public Works, all repair or removal work to eliminate the illegal connection shall be completed within 60 days of notification by the City that an illegal connection has been discovered.

C. The City may impose civil administrative penalties or take other enforcement actions against a property owner who fails to perform any act required in this section.

31.37.030 Annexation fees

In addition, all property annexed to the city of Cotati shall pay an annexation fee for sewer service, based on a formula established by the City Council.

31.37.040 Connection fees—Major users

From time to time, the City Council shall adopt, by two-thirds vote, charges and fees.

Upon application for a building permit and prior to the actual construction of any sewer facilities by the applicant, a sum of money equal to the amount of the applicable connection fees shall be paid to the city.

31.37.045 Additional fees

Any property annexing to the city which is served by sewage facilities financed by an assessment district for which the property did not participate in the assessment, shall contribute a fee in addition to that covered by Section 31.37.040. The additional fee shall be equal to the cost which the property would have been required to pay had it been included originally within the assessment district, and such fee shall be determined by the City Council.

31.37.050 Demand fees—Computation—Time of payment

All fees set forth in Article I of Chapter 13-39 shall be computed by the Director of Public Works and shall be paid prior to the actual issuance of the building permit for the structure, work or improvement proposed to be connected to the sewer system. For the purposes of this section, a mobile home is a structure.

31.37.080 Privately constructed lines—Approval required

Sanitary sewer lines proposed for construction by individuals or groups shall be the size necessary to handle sewage from the entire area tributary to the line when that area is developed to ultimate population density, as determined by the Director of Public Works.

31.37.100 Disconnection for noncompliance

Any connection made to the public sewer system of the City in violation of Section 31.37.020 shall be immediately disconnected under the direction of the City Council.

31.37.120 Termination upon notice

Notwithstanding anything to the contrary in this chapter, the City reserves the right to terminate any agreement under this chapter upon six months' written notice to the owner of the property at his last known address, or at his address stated on such agreement, or to the occupant of the premises served.

31.37.130 Agreements to comply with City regulations

Any agreement made under this chapter may incorporate provisions not contained in this chapter, if not in conflict therewith.

31.37.140 Connections outside City—Compliance with City regulations

Any person having or obtaining a sewer connection outside the City after the date of the ordinance codified in this chapter shall comply with all present and future provisions of this code and other ordinances and regulations of the City relating to sewer connections and the use thereof, to the same extent and manner as if such sewer connection were located within the City.

31.37.150 Cash guarantee deposit requirement

Each new applicant for sewer service shall establish and maintain credit to the satisfaction of the City Council by a cash guarantee deposit or otherwise before service will be rendered. The City Council may adopt reasonable rules and regulations relative to the amount of a guarantee deposit required, the length of time it will be required, the terms and conditions under which it will be held by the City, the terms and conditions under which it will be returned to the depositor and the terms and conditions under which it may be applied against a delinquent account, reinstated or otherwise appropriated by the City.

31.37.200 Provisions of other Ordinances

The provisions of all city ordinances and other state and county regulations establishing standards for sewer construction and providing for the issuance of permits and inspection of such construction shall be applicable to all sewer connections, and shall be performed in accordance herewith.

Section 5.

Chapter 13.37 Private Sewage Disposal is repealed in its entirety and reenacted as Chapter 13.38 Private Sewage Systems to read as follows:

Chapter 13.38

PRIVATE SEWAGE SYSTEMS*

Sections:

13.38.010 General provisions

13.38.020 Maintenance of private sewage systems—Nuisance when.

13.38.010 General provisions

A. Objectives. The objectives of regulating private sewage disposal systems are as follows:

- (1) To attain the highest possible level of public health standards within new development in the City;
- (2) To insure uniformity and consistency in the standards of sanitary service within the City;
- (3) To achieve and maintain environmental protection by utilizing a public sewer system instead of private septic systems;
- (4) To prevent the use of private sewage systems within the City except where specified conditions of approval are met.

B. Applicable Permit Required. No private sewage systems shall be installed, altered or repaired within the City without obtaining all required permits for private sewage systems, issued by the Sonoma County Permit and Resources Management Department.

C. Conditions of Approval. Private sewage system permit applications may be approved, and issued by the Sonoma County Permits and Resources Management Department subject to the following conditions:

- (1) All approvals of private sewage system permit applications shall include a finding that City sewer facilities will not be available within the meaning of Section 13.38.010, subsections (A) and (B)) and Section 31.34.036- Sewers required, within a reasonable time;
- (2) Except lots legally existing on the effective date of the ordinance codified in this chapter, all lots for which private sewage system approvals are sought must be at least two acres in size and less than 30 percent slope for the leach field area;
- (3) All private sewage system applicants seeking approvals shall furnish results of soil percolation tests performed under wet weather standards unless the applicant has furnished evidence sufficient to establish that it has been previously

demonstrated to a county health officer or the regional board that percolation rates are satisfactory in the area for which the permit is sought;

(4) All private sewage system permit applications shall be accompanied by plans which conform to County Health Department standards;

(5) All applicants for whom private sewage systems are approved shall, prior to issuance of any required permit, record an irrevocable covenant running with the land obligating the land to connect to the public sewer when required by the Director of Public Works as part of an area-wide sewer installation program;

(6) All applicants for whom private sewage systems are approved shall allow inspection of their private sewage system by a County Environmental Health Department representative upon presentation of proper identification;

(7) At such time as a public sewer becomes available (within the meaning of Section 31.34.036), to parcels served by a private sewage system constructed subsequent to the enactment of the ordinance codified in this chapter, the building sewer shall be connected to said public sewer, as provided in this chapter;

(8) Discharge of wastewater from any parcels within the City onto land or to any natural outlet may be permitted only if the discharge complies with all requirements of the Regional Water Quality Control Board and of all other local, state, and federal laws and regulations.

13.38.020 Maintenance of private sewage systems—Nuisance when.

The construction, continuance, or maintenance of private sewage systems, sewer pipes or other pipes or conduits, including residential graywater systems as defined by Chapter 22, Section 14875, et seq., of the California Water Code, for the treatment and discharge of sewage or impure waters, gas, vapor, oils, acids, tar or any other matter or substance offensive, injurious or dangerous to health, except only an authorized direct connection into the public sewers maintained and operated by the City, constitutes a public nuisance if a public sewer exists and connection thereto is available within 200 feet of the property line closest to the available sewer of any parcel within the City upon which any such condition exists.

Section 6. Environmental Determination. The Council finds that the adoption and implementation of this ordinance are exempt from the provisions of the California Environmental Quality Act because they will not cause a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

Section 7. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 8. Effective Date. This ordinance shall take effect on the 31st day following its adoption.

IT IS HEREBY CERTIFIED that the foregoing ordinance was duly introduced and legally adopted at a regular meeting of the City Council of the City of Cotati held on the **XXX** day of November, 2009 by the following vote, to wit:

COLEMAN-SENGHOR	
BARICH	
GILARDI	
ORCHARD	

Approved: _____

—

Mayor

Attest: _____

Deputy City Clerk

Approved as to form:

City Attorney

City Council Agenda Regular Agenda

Subject: Request for Support for the League of California Cities' Initiative known as the Local Taxpayer, Public Safety and Transportation Protection Act of 2010

Date: November 25, 2009

Written by: Dianne Thompson, City Manager

Recommendation

It is recommended that the Council adopt a resolution in support for the League of California Cities' Initiative known as the Local Taxpayer, Public Safety and Transportation Protection Act of 2010.

Background

On October 20th a coalition, which includes the League of California Cities, local government, transportation and public transit leaders, filed a ballot measure initiative - the Local Taxpayer, Public Safety and Transportation Protection Act - with the California Attorney General's office . The coalition is working to have this measure placed on the statewide ballot for November 2010.

The measure, if passed by voters, would close loopholes and prevent the state from borrowing, raiding or otherwise redirecting local government (local taxes, property taxes, redevelopment), transportation (HUTA and Prop. 42 funds) and public transit funds. The League has requested that local agencies adopt a resolution supporting the initiative.

Analysis/Discussion

The League's analysis, entitled, "Ballot Measure Filed to Protect Funding for Public Safety, Transportation, Redevelopment, Transit and Other Vital Local Services" is attached.

Financial Considerations

The proposed measure seeks to prevent the taking of local taxpayer funds currently dedicated to cities, counties and special districts. It would also revoke the state's authority to borrow local government property tax funds or divert local redevelopment funds, prevent state borrowing, taking or redirecting of the state sales tax on gasoline (Prop.42 funds) and Highway User Tax on

gasoline (HUTA) funds that are dedicated to transportation maintenance and improvements. It would also prevent the state from redirecting or taking public transit funds

Environmental Issues

None.

Attachments:

1. League analysis
2. Proposed resolution
3. Initiative (short version)

2009-11-19

Ballot Measure Filed to Protect Funding for Public Safety, Transportation, Redevelopment, Transit and Other Vital Local Services

On Tuesday, Oct. 20, a coalition, which includes the League, local government, transportation and public transit leaders filed a ballot measure initiative - the Local Taxpayer, Public Safety and Transportation Protection Act - with the California Attorney General's office. The coalition is working to have this measure placed on the statewide ballot for November 2010.

The measure, if passed by voters, would close loopholes and prevent the state from borrowing, raiding or otherwise redirecting local government (local taxes, property taxes, redevelopment), transportation (HUTA and Prop. 42 funds) and public transit funds.

Background

More than 300 city officials and 200 county and school board officials participated in a historic summit this summer on the need for state governance and fiscal reform. Summit participants selected "Local Revenue Protection" as the highest reform priority.

Many city officials also attended the League's annual conference last month in San Jose where voting delegates unanimously voted to support the League's co-sponsorship of a ballot measure for November 2010 to tighten protections of city and transportation revenues.

No one doubts the need for this measure after the state came dangerously close to stealing \$1 billion in local gas tax revenues and then actually borrowed \$2 billion in local property taxes, seized billions in redevelopment agency funds and took \$697 million of transit funds.

Ballot Measure Details

The ballot that was filed by the growing coalition working to protect local revenues and local services would:

Prohibit the state from taking, borrowing or redirecting local taxpayer funds dedicated to public safety, emergency response and other vital local government services (including redevelopment). The measure would close loopholes to prevent the taking of local taxpayer funds currently dedicated to cities, counties and special districts. It would also revoke the state's authority to borrow local government property tax funds or divert local redevelopment funds.

Protect vital, dedicated transportation and public transit funds from state raids. The measure would prevent state borrowing, taking or redirecting of the state sales tax on gasoline (Prop. 42 funds) and Highway User Tax on gasoline (HUTA) funds that are dedicated to transportation maintenance and improvements. It would also prevent the state from redirecting or taking public transit funds.

Next Steps

Filing the measure with the Attorney General's office is just the first step in a long and expensive process of qualifying a measure for the November 2010 ballot and securing voter approval. The coalition will receive the official Title and Summary in late November or early December 2009. At that time, the coalition can proceed with collecting the approximately 1 million signatures needed to qualify for the November 2010 ballot.

With the state continuing to raid and borrow local government, transit and transportation funds, this measure is desperately needed to protect taxpayers and the vital local government and transportation services that support our quality of life and economy.

Grassroots organization and fundraising will be paramount to the success of this measure if it moves forward. The strength of interest and commitment to signature gathering and fundraising by city officials is the most important factor to the League board in determining whether to support gathering signatures and filing one of the measures.

The coalition released its announcement of the filing of the measure on Oct. 20. It's posted on the League's [Web site](#).

Although, two alternative versions of the ballot measure were actually filed, their content is virtually identical. The major difference is formatting. Copies of the [short](#) and [long](#) versions of the ballot measures filed with the Attorney General are posted on the League's Web site.

Additional information is posted on the coalition's campaign Web site at www.savelocalservices.com. **City officials are urged to only visit this Web site from a private computer and not on city time.**

The League will continue to update city officials with further developments through the regional public affairs managers, *City Advocate Weekly* and the listservs.

last updated : 10/29/2009

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COTATI IN
SUPPORT OF THE LOCAL TAXPAYER, PUBLIC SAFETY AND
TRANSPORTATION PROTECTION ACT OF 2010**

WHEREAS, California voters have repeatedly and overwhelmingly passed separate ballot measures to stop State raids of local government funds, and to dedicate the taxes on gasoline to fund local and state transportation improvement projects; and

WHEREAS, these local government funds are critical to provide the police and fire, emergency response, parks, libraries, and other vital local services that residents rely upon every day, and gas tax funds are vital to maintain and improve local streets and roads, to make road safety improvements, relieve traffic congestion, and provide mass transit; and

WHEREAS, despite the fact that voters have repeatedly passed measures to prevent the State from taking these revenues dedicated to funding local government services and transportation improvement projects, the State Legislature has seized and borrowed billions of dollars in local government and transportation funds in the past few years; and

WHEREAS, this year's borrowing and raids of local government, redevelopment and transit funds, as well as previous, ongoing raids of local government and transportation funds have lead to severe consequences, such as layoffs of police, fire and paramedic first responders, fire station closures, stalled economic development, healthcare cutbacks, delays in road safety improvements, public transit fare increases and cutbacks in public transit services; and

WHEREAS, State politicians in Sacramento have continued to ignore the will of the voters, and current law provides no penalties when state politicians take or borrow these locally-dedicated funds; and

WHEREAS, a coalition of local government, transportation and transit advocates recently filed a constitutional amendment with the California Attorney General, called the Local Taxpayer, Public Safety, and Transportation Protection Act of 2010, for potential placement on California's November 2010 statewide ballot; and

WHEREAS, approval of this ballot initiative would close loopholes and change the constitution to further prevent State politicians in Sacramento from seizing, diverting, shifting, borrowing, transferring, suspending or otherwise taking or interfering with tax revenues dedicated to funding local government services, including redevelopment, or dedicated to transportation improvement projects and mass transit.

THEREFORE, BE IT RESOLVED that the City of Cotati formally endorses the Local Taxpayer, Public Safety and Transportation Protection Act of 2010, a proposed constitutional amendment.

BE IT FURTHER RESOLVED that we hereby authorize the listing of the City of Cotati in support of the Local Taxpayer, Public Safety and Transportation Protection Act of 2010 and instruct staff to fax a copy of this resolution to campaign offices at 916.442.3510.

IT IS HEREBY CERTIFIED that the foregoing resolution was duly introduced and legally adopted at a regular meeting of the City Council of the City of Cotati held on the 25th day of November, 2009 by the following vote, to wit:

COLEMAN-SENGHOR _____
HARVEY _____
GILARDI _____
LANDMAN _____
ORCHARD _____

Approved: _____
Robert Coleman-Senghor, Vice Mayor

Attest: _____
Tamara Taylor, Deputy City Clerk

SECTION 1. Title.

This act shall be known and may be cited as the "Local Taxpayer, Public Safety, and Transportation Protection Act of 2010."

SECTION 2. Findings and Declarations.

The people of the State of California find and declare that:

(a) In order to maintain local control over local taxpayer funds and protect vital services like local fire protection and 9-1-1 emergency response, law enforcement, emergency room care, public transit, and transportation improvements, California voters have repeatedly and overwhelmingly voted to restrict state politicians in Sacramento from taking revenues dedicated to funding local government services and dedicated to funding transportation improvement projects and services.

(b) By taking these actions, voters have acknowledged the critical importance of preventing State raids of revenues dedicated to funding vital local government services and transportation improvement projects and services.

(c) Despite the fact that voters have repeatedly passed measures to prevent the State from taking these revenues dedicated to funding local government services and transportation improvement projects and services, state politicians in Sacramento have seized and borrowed billions of dollars in local government and transportation funds.

(d) In recent years, state politicians in Sacramento have specifically:

(1) Borrowed billions of dollars in local property tax revenues that would otherwise be used to fund local police, fire and paramedic response and other vital local services;

(2) Sought to take and borrow billions of dollars in gas tax revenues that voters have dedicated to on-going transportation projects and tried to use them for non-transportation purposes;

(3) Taken local community redevelopment funds on numerous occasions and used them for unrelated purposes;

(4) Taken billions of dollars from local public transit like bus, shuttle, light-rail and regional commuter rail, and used these funds for unrelated state purposes.

(e) The continued raiding and borrowing of revenues dedicated to funding local government services and dedicated to funding transportation improvement projects and services can cause severe consequences, such as layoffs of police, fire and paramedic first

responders, fire station closures, healthcare cutbacks, delays in road safety improvements, public transit fare increases and cutbacks in public transit services.

(f) State politicians in Sacramento have continued to ignore the will of the voters, and current law provides no penalties when state politicians take or borrow these dedicated funds.

(g) It is hereby resolved, that with approval of this ballot initiative, state politicians in Sacramento shall be prohibited from seizing, diverting, shifting, borrowing, transferring, suspending or otherwise taking or interfering with tax revenues dedicated to funding local government services or dedicated to transportation improvement projects and services.

SECTION 3. Statement of Purpose.

The purpose of this measure is to conclusively and completely prohibit state politicians in Sacramento from seizing, diverting, shifting, borrowing, transferring, suspending, or otherwise taking or interfering with revenues that are dedicated to funding services provided by local government or funds dedicated to transportation improvement projects and services.

SECTION 4. Article XVII is added to the California Constitution, to read:

SECTION 1. The Legislature may not reallocate, transfer, borrow, appropriate, restrict the use of, or otherwise use the proceeds of any tax imposed or levied by a local government solely for the local government's purposes.

SEC. 2. On and after the effective date of the measure adding this article, and notwithstanding subparagraphs (B) and (C) of paragraph (1) of subdivision (a) of Section 25.5 of Article XIII of this Constitution or any other law, the Legislature may not suspend subparagraph (A) of paragraph (1) of subdivision (a) of Section 25.5 of Article XIII. The Legislature may not change the pro rata shares in which ad valorem property taxes are allocated among local agencies to transfer property taxes to a local government when the Legislature or any state agency mandates a new program or higher level of service on that local government.

SEC. 3. On and after the effective date of the measure adding this article, and notwithstanding Section 15 of Article XI of this Constitution or any other law, the Legislature may not change the allocation of revenues described in Section 15 of Article XI to reimburse a city, county, or city and county when the Legislature or any state agency mandates a new program or higher level of service on that city, county, or city and county.

SEC. 4. On and after the effective date of the measure adding this article, and notwithstanding Article XIX of this Constitution or any other law:

(a) Revenues from taxes imposed by the State on motor vehicle fuels for use in motor vehicles upon public streets and highways, over and above the costs of collection and any refunds authorized by law, shall be deposited into the Highway Users Tax Account (Section 2100 of the Streets and Highways Code) or its successor, which is hereby declared to be a trust

fund, and shall be used solely for the purposes identified in subdivisions (a) and (b) of Section 1 of Article XIX.

(b) The Legislature may, by a two-thirds vote of the membership in each house, modify the statutory allocations in effect on June 30, 2009 only in accordance with the procedures specified in Section 3 of Article XIX. Any bill modifying the statutory allocations in effect on June 30, 2009 must remain in its final form for at least 12 days prior to passage in either house of the Legislature.

(c) Revenues from taxes described in subdivision (a) allocated to cities, counties, and areas of the State may be used solely by the entity to which they are allocated, and solely for the purposes described in Sections 1 and 4 of Article XIX; and Section 5 of Article XIX subject to the requirements of subdivision (e). The Legislature may not take any action that permanently or temporarily borrows, diverts, appropriates for unrelated purposes, or delays, defers, suspends, or otherwise interrupts the payment, allocation, distribution, disbursal, or transfer of revenues from taxes described in subdivision (a) to cities, counties, and areas of the State pursuant to the procedures in effect on June 30, 2009.

(d) If the Legislature reduces or repeals the taxes described in subdivision (a) and adopts an alternative source of revenue to replace the moneys derived from those taxes, the replacement revenue shall be deposited and allocated in the same manner, and dedicated to the same purposes, as the revenues being replaced.

(e)(1) Revenues allocated to any city or county pursuant to Section 3 of Article XIX for the purposes specified in subdivision (a) of Section 1 of Article XIX shall not be used by the State for any purpose, including, but not limited to, payment of principal and interest on voter-approved bonds issued by the State. Up to 25 percent of the revenues allocated to any city or county pursuant to Section 3 of Article XIX for the purposes specified in subdivision (a) of Section 1 of Article XIX may be used by any city or county for the payment of principal and interest on voter-approved bonds issued by that city or county for such purposes.

(2) Up to 25 percent of the revenues allocated to the State pursuant to Section 3 of Article XIX for the purposes specified in subdivision (a) of Section 1 of Article XIX may be pledged or used by the State, upon approval of the voters and appropriation by the Legislature, for the payment of principal and interest on voter-approved bonds issued by the State for such purposes on or after November 2, 2010.

SEC. 5. On and after the effective date of the measure adding this article, and notwithstanding Section 1 of Article XIX A of this Constitution or any other law:

(a) All of the following shall be deposited no less than quarterly into the Public Transportation Account (Section 99310 of the Public Utilities Code), or its successor, which is hereby declared to be a trust fund:

(1) All revenues specified in paragraphs (1) through (3), inclusive, of subdivision (a) of Section 7102 of the Revenue and Taxation Code, as that section read on June 1, 2001.

(2) All moneys in the Transportation Investment Fund that are allocated for public transit and mass transportation pursuant to paragraph (A) of subdivision (c) of Section 1 of Article XIX B.

(b) Funds in the Public Transportation Account may only be used for transportation planning and mass transportation purposes. The Legislature may not take any action that permanently or temporarily borrows, diverts, appropriates for unrelated purposes, or delays, defers, suspends, or otherwise interrupts the quarterly deposit of the funds specified in subdivision (a) into the Public Transportation Account. Funds in the Public Transportation Account may not be loaned or otherwise transferred to the General Fund or any other fund or account in the State Treasury.

(c) For the purposes of subparagraph (A) of paragraph (1) of subdivision (e), "transportation planning" means only the purposes described in subdivisions (c) through (f), inclusive, of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

(d) For the purposes of this article and Article XIX B, "mass transportation," "public transit," and "mass transit" have the same meaning as "public transportation." "Public transportation" means:

(1)(A) Surface transportation service provided to the general public, complementary paratransit service provided to persons with disabilities as required by 42 U.S.C. 12143, or similar transportation provided to people with disabilities or the elderly; (B) operated by bus, rail, ferry, or other conveyance on a fixed route, demand response, or otherwise regularly available basis; (C) generally for which a fare is charged; and (D) provided by any transit district, included transit district, municipal operator, included municipal operator, eligible municipal operator, or transit development board, as those terms were defined in Article 1 of Chapter 4 of Part 11 of Division 10 of the Public Utilities Code on January 1, 2009, a joint powers authority formed to provide mass transportation services, an agency described in subdivision (f) of Section 15975 of the Government Code, as that section read on January 1, 2009, any recipient of funds under Sections 99260, 99260.7, 99275, or subdivision (c) of Section 99400 of the Public Utilities Code, as those sections read on January 1, 2009, or a consolidated agency as defined in Section 132353.1 of the Public Utilities Code, as that section read on January 1, 2009.

(2) Surface transportation service provided by the Department of Transportation pursuant to subdivision (a) of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

(3) Public transit capital improvement projects, including those identified in subdivision (b) of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

(e)(1) Revenues deposited into the Public Transportation Account pursuant to paragraph (1) of subdivision (a) are hereby continuously appropriated to the Controller without regard to fiscal years for allocation as follows:

(A) Fifty percent pursuant to subdivisions (a) through (f), inclusive, of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

(B) Twenty-five percent pursuant to subdivision (b) of Section 99312 of the Public Utilities Code, as that section read on July 30, 2009.

(C) Twenty-five percent pursuant to subdivision (c) of Section 99312 of the Public Utilities Code, as that section read on July 30, 2009.

(2) Revenues deposited into the Public Transportation Account pursuant to paragraph (2) of subdivision (a) are hereby continuously appropriated to the Controller without regard to fiscal years for allocation as follows:

(A) Twenty-five percent pursuant to subdivision (b) of Section 99312 of the Public Utilities Code, as that section read on July 30, 2009.

(B) Twenty-five percent pursuant to subdivision (c) of Section 99312 of the Public Utilities Code, as that section read on July 30, 2009.

(C) Fifty percent for the purposes of subdivisions (a) and (b) of Section 99315 of the Public Utilities Code, as that section read on July 30, 2009.

SEC. 6. On and after the effective date of the measure adding this article, and notwithstanding any other provision of this Constitution or any other law, the percentage of the tax imposed pursuant to Section 7202 of the Revenue and Taxation Code allocated to local transportation funds shall not be reduced below the percentage that was transmitted to such funds during the 2008 calendar year. Revenues allocated to local transportation funds shall be transmitted in accordance with Section 7204 of the Revenue and Taxation Code and deposited into local transportation funds in accordance with Section 29530 of the Government Code, as those sections read on June 30, 2009.

SEC. 7. (a) On and after the effective date of the measure adding this article, and notwithstanding subdivision (d) of Section 1 of Article XIX B of this Constitution or any other law, all revenues that are collected during the fiscal year from taxes under the Sales and Use Tax Law, or any successor to that law, upon the sale, storage, use, or other consumption in this State of motor vehicle fuel, as defined in Section 7326 of the Revenue and Taxation Code on June 30, 2009, shall be deposited quarterly into the Transportation Investment Fund (subdivision (a) of Section 7104 of the Revenue and Taxation Code) or its successor, which is hereby declared to be a trust fund. The Legislature may not take any action that permanently or temporarily borrows, diverts, appropriates for unrelated purposes, or delays, defers, suspends, or otherwise interrupts the quarterly deposit of these funds into the Transportation

Investment Fund. Funds in the Transportation Investment Fund may not be loaned or otherwise transferred to the General Fund or any other fund or account in the State Treasury.

(b) (1) If the Legislature reduces or repeals the taxes described in subdivision (a) and adopts an alternative source of revenue to replace the moneys derived from those taxes, the replacement revenue shall be deposited and allocated in the same manner, and dedicated to the same purposes, as the revenues being replaced.

(2) In addition to the requirements contained in subdivision (e) of Section 1 of Article XIX B, any bill modifying the percentage shares set forth in subdivision (c) of Section 1 of Article XIX B must remain in its final form for at least 12 days prior to passage in either house of the Legislature.

SEC. 8. (a) The Legislature may not require a community redevelopment agency (1) to pay, remit, loan or otherwise transfer, directly or indirectly, taxes on ad valorem real property and tangible personal property allocated to the agency pursuant to Section 16 of Article XVI to or for the benefit of the State, any agency of the State, or any jurisdiction; or (2) to use, restrict, or assign a particular purpose for such taxes for the benefit of the State, any agency of the State, or any jurisdiction, other than (A) for making payments to affected taxing agencies pursuant to Sections 33607.5 and 33607.7 of Health and Safety Code or similar statutes requiring such payments, as those statutes read on January 1, 2008; or (B) for the purpose of increasing, improving, and preserving the supply of low and moderate income housing available at affordable housing cost.

(b) "Jurisdiction" has the meaning specified in Section 95 of the Revenue and Taxation Code, as that section read on July 1, 2009.

SEC. 9. (a) If any challenge to invalidate an action that violates Sections 4 through 8, inclusive, of this article is successful either by way of a final judgment, settlement, or resolution by administrative or legislative action, there is hereby continuously appropriated from the General Fund to the Controller, without regard to fiscal years, that amount of revenue necessary to restore the fund or account from which the revenues were unlawfully taken or diverted to its financial status had the unlawful action not been taken.

(b) If any challenge to invalidate an action that violates Sections 1 through 3, inclusive, of this article is successful either by way of a final judgment, settlement, or resolution by administrative or legislative action, there is hereby continuously appropriated from the General Fund to the local government an amount of revenue equal to the amount of revenue unlawfully taken or diverted.

(c) Interest calculated at the Pooled Money Investment Fund rate from the date or dates the revenues were unlawfully taken or diverted shall accrue to the amounts required to be restored pursuant to this section. Within thirty days from the date a challenge is successful, the

Controller shall make the transfer required by the continuous appropriation and issue a notice to the parties that the transfer has been completed.

(d) If in any challenge brought pursuant to this section a restraining order or preliminary injunction is issued, the plaintiffs or petitioners shall not be required to post a bond obligating the plaintiffs or petitioners to indemnify the government defendants or the State of California for any damage the restraining order or preliminary injunction may cause.

SECTION 5.

Section 16 of Article XVI of the Constitution requires that a specified portion of the taxes levied upon the taxable property in a redevelopment project each year be allocated to the redevelopment agency to repay indebtedness incurred for the purpose of eliminating blight within the redevelopment project area. Section 16 of Article XVI prohibits the Legislature from reallocating some or all of that specified portion of the taxes to the State, an agency of the State, or any other taxing jurisdiction, instead of to the redevelopment agency. The Legislature has been illegally circumventing Section 16 of Article XVI in recent years by requiring redevelopment agencies to transfer a portion of those taxes for purposes other than the financing of redevelopment projects. A purpose of the amendments made by this measure is to prohibit the Legislature from requiring, after the taxes have been allocated to a redevelopment agency, that the redevelopment agency transfer some or all of those taxes to the State, an agency of the State, or a jurisdiction; or use some or all of those taxes for the benefit of the State, an agency of the State, or a jurisdiction.

SECTION 6. Continuous Appropriations.

The continuous appropriations provided for in this Act are intended to be "appropriations made by law" within the meaning of Section 7 of Article XVI of the California Constitution.

SECTION 7. Liberal Construction.

The provisions of this Act shall be liberally construed in order to effectuate its purposes.

SECTION 8. Conflicting Statutes.

Any statute enacted between October 21, 2009 and the effective date of this measure, that would have been prohibited if this measure were in effect on the date the statute was enacted, is hereby repealed.

SECTION 9. Conflicting Ballot Measures.

In the event that this measure and another measure or measures relating to the direction or redirection of revenues dedicated to funding services provided by local

governments and/or transportation projects or services appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure or measures shall be null and void.

SECTION 10. Severability.

It is the intent of the People that the provisions of this Act are severable and that if any provision of this Act, or the application thereof to any person or circumstance, is held invalid such invalidity shall not affect any other provision or application of this Act which can be given effect without the invalid provision or application.

Joint Meeting of City Council and Redevelopment Agency Board of Directors Agenda Consent Calendar

Subject: Receive and File Warrants and Audited Claims for October 29th, 2009 – November 12th, 2009

Date: November 25, 2009

Written by: Jone Hayes, Director of Administrative Services

Recommendation

It is recommended that the City Council receive and file the warrants and audited claims (the A/P Check Registers) as submitted.

Background

Warrants (checks) are created by City Staff in compliance with the following Municipal Code Sections:

2.12.160 Expenditure control--Purchasing.

It shall be the duty of the city manager to see that no expenditures shall be submitted or recommended to the city council except on approval of the city manager or his authorized representative. The city manager, or his authorized representative, shall be responsible for the purchase of all supplies for all the departments or divisions of the city. (Ord. 97 §7.9, 1968).

3.36.010 Expenditures--Compliance required.

All expenditures of city funds in connection with purchases must be made strictly in accordance with the duly adopted budget, and in order that budgetary control may be effectively exercised, the procedures in this chapter shall be followed. (Ord. 575 §1(part), 1992).

Analysis/Discussion

Warrants and Audited Claims listings (now identified as the A/P Check Registers) list all warrants issued for the period indicated. Per Council action on July 11, 2007 all warrants are released as they are created.

All expenditures of City funds in connection with purchases of services or materials are strictly in accordance with the duly adopted budget and / or Council actions amending the adopted

budget. Expenditures have been approved for payment by either the City Manager or by Department Heads.

Financial Considerations

The following is the totals for the Warrants and Audited Claims (the A/P Check Register) issued for the period of October 29, 2009 – November 12, 2009:

November 12, 2009	\$ 147,008.81
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Environmental Issues

None.

Attachments:

1. Check Register dated 11/12/09

PACKET: 00374 Regular Payments

VENDOR SET: 01

BANK : AP AP - CASH CLEARING (POOL)

VENDOR	NAME / I.D.	DESC	CHECK TYPE	CHECK DATE	DISCOUNT	AMOUNT	CHECK NO#	CHECK AMOUNT
ALL06	ALL STAR CARPET CARE I-7175	CARPET CLEANING - PD	R	11/12/2009		150.00CR	058401	150.00
ATT10	AT&T I-937690 I-937704	7077938562695 9/22 - 10/21/09 C607393086777 9/22 - 10/21/09	R	11/12/2009		15.83CR 1,849.52CR	058402 058402	1,865.35
BLA04	BLAIRWORKS I-2728	WEBSITE HOSTING - NOV 2009	R	11/12/2009		30.00CR	058403	30.00
BRE01	BRELJE & RACE, INC. I-53481	WATER SAMPLES - SEPT 2009	R	11/12/2009		411.20CR	058404	411.20
CIT04	CITY OF UKIAH I-134717	RRWA SUPPORT 09/10	R	11/12/2009		10,052.09CR	058405	10,052.09
CIT11	CITY OF COTATI							
	I-110209	05-0120-00 8/18 - 10/17/09	R	11/12/2009		28.50CR	058406	28.50
	I-110209A	06-0720-00 8/18 - 10/17/09	R	11/12/2009		95.17CR	058406	95.17
	I-110209B	07-3170-00 8/18 - 10/17/09	R	11/12/2009		28.50CR	058406	28.50
	I-110209C	07-4380-00 8/18 - 10/17/09	R	11/12/2009		97.14CR	058406	97.14
	I-110209D	07-4540-00 8/18 - 10/17/09	R	11/12/2009		31.14CR	058406	31.14
	I-110209E	08-2900-00 8/18 - 10/17/09	R	11/12/2009		466.33CR	058406	466.33
	I-110209F	08-3340-00 8/18 - 10/17/09	R	11/12/2009		321.13CR	058406	321.13
	I-110209G	09-0010-00 8/18 - 10/17/09	R	11/12/2009		47.59CR	058406	47.59
	I-110209H	09-1650-00 8/18 - 10/17/09	R	11/12/2009		47.59CR	058406	47.59
	I-110209I	09-2840-00 8/18 - 10/17/09	R	11/12/2009		51.79CR	058406	51.79
CLA02	BRANT CLAUSSEN I-110509	REIMB ARTISTS RECEPTION CHGS	R	11/12/2009		75.41CR	058407	75.41
CON10	CONOCOPHILLIPS FLEET I-870135035910	FUEL CHGS - OCT 2009	R	11/12/2009		3,263.82CR	058408	3,263.82
COO02	THE J.P. COOKE CO. I-33804	DOG TAGS (800)	R	11/12/2009		116.21CR	058409	116.21
COT02	COTATI OAKS TRUE VALUE HARDWARE I-102509	#725-10018 - PW SUPPLIES	R	11/12/2009		142.32CR	058410	142.32
CRE02	CREDIT CHECK I-61207	PATRICK LEE (PD VOLUNTEER)	R	11/12/2009		25.00CR	058411	25.00

VENDOR	NAME / I.D.	DESC	CHECK TYPE	CHECK DATE	DISCOUNT	AMOUNT	CHECK NO#	CHECK AMOUNT
CUL01	CULLIGAN I-102109	#98186 WELL 2 HI-CAP RENTAL	R	11/12/2009		37.36CR	058412	37.36
DEA02	REBECCA DEAN I-110409	HIGH-EFFICIENCY WASHER REBATE	R	11/12/2009		75.00CR	058413	75.00
DEL07	TERESA DE LA O I-110209	RFD RM RENTAL DEPOSIT 9/28/09	R	11/12/2009		25.00CR	058414	25.00
DEP04	DEPART. OF TRANSPORTATION I-186099	SIGNALS / LIGHTING - SEPT 2009	R	11/12/2009		101.59CR	058415	101.59
DEV03	DEVOTO PLUMBING, INC. I-7866 I-7896 I-7927 I-7929	SURVEY - 7960 SUNFLOWER WATER SURVEYS (5) TOILET RETRO - 12 MIWOK CT TOILET RETRO - 8751 FEHLER LN	R	11/12/2009		120.00CR 600.00CR 630.00CR 630.00CR	058416 058416 058416 058416	1,980.00
DIG01	DIGITAL PRINTS & IMAGING I-9172743 I-9172887 I-9173015	COPIES - CASH FOR GRASS COPIES - CASH FOR GRASS COPIES-EXP TENT. MAP-RYAN LN	R	11/12/2009		17.04CR 17.04CR 28.71CR	058417 058417 058417	62.79
GAB01	GABE'S AUTO BODY I-2757-COT I-2765-COT	#19 - TRUNK REPAIR #19 - ADJUST WINDOW	R	11/12/2009		467.50CR 127.50CR	058418 058418	595.00
GRA01	GRAINGER, INC. I-9094496131 I-9104914271 I-9104914289	BALLAST/COIL KIT - PW BULBS (4) - PD BALLAST (3) / BULBS (6) - PW	R	11/12/2009		213.62CR 103.03CR 355.51CR	058419 058419 058419	672.16
GRE04	GREEN VALLEY CONSULTING ENGINEERS I-2009-457	100 VALPARAISO 9/26-10/25/09	R	11/12/2009		345.00CR	058420	345.00
HAC01	HACH COMPANY I-6468063	CHLORINE - WELLS	R	11/12/2009		61.54CR	058421	61.54
HAN01	HANSEL FORD I-849977 I-850677	VEHICLE SUPPLY - #18 VEHICLE SUPPLY - #17	R	11/12/2009		76.55CR 297.16CR	058422 058422	373.71

PACKET: 00374 Regular Payments

VENDOR SET: 01

BANK : AP AP - CASH CLEARING (POOL)

VENDOR	NAME / I.D.	DESC	CHECK TYPE	CHECK DATE	DISCOUNT	AMOUNT	CHECK NO#	CHECK AMOUNT
HIN01	HINES SIGNS I-15110	RE-NUMBER WATER TOWER RULER	R	11/12/2009		90.40CR	058423	90.40
IBS01	I.B.S. OF THE NORTH BAY I-16134 I-6859	VEHICLE SUPPLIES - PD BATTERY - PD	R	11/12/2009		9.13CR 91.72CR	058424 058424	100.85
INF01	INFOSTOR, INC. I-91784 I-91785	RECORD STORAGE - NOV 2009 RECORD STORAGE - NOV 2009	R	11/12/2009		332.85CR 15.50CR	058425 058425	348.35
INT19	INTEGRITY CONSTRUCTION MAINTENANCE, INC. I-74621 I-74623	CITY HALL/COTATI RM/COMM CTR COTATI RM 9/18, 9/21	R	11/12/2009		765.00CR 360.00CR	058426 058426	1,125.00
JUD01	JUDICIAL DATA SYSTEM CORP I-532	PARKING CITATIONS - SEPT 2009	R	11/12/2009		100.00CR	058427	100.00
KAI01	KAISSER FOUNDATION HEALTH PLAN, INC. I-DEC2009	15832-0000 - DEC 2009	R	11/12/2009		14,116.00CR	058428	14,116.00
MAH01	VENUS MAHER / MAHER CHIROPRACTIC I-110209	RFD PARK RENTAL DEPOSIT 10/10	R	11/12/2009		250.00CR	058429	250.00
MAS02	MASTER K-9, INC. I-5397	K9 MAINT TRAINING - OCT 2009	R	11/12/2009		150.00CR	058430	150.00
MCC08	ERIC OR KRISTA MCCAFFERTY I-110409	HIGH-EFFICIENCY WASHER REBATE	R	11/12/2009		75.00CR	058431	75.00
MCL01	MCL01 I-6022198 I-6022532 I-6022635 I-6022776 I-6022782 I-6022802	MCL01'S TIRE & AUTOMOTIVE #17 - TIRES (2) #16-LOF/TRANS FLUSH/TIRES (4) #19-TIRES (4)/TIRES (4)-STOCK #18-LUBE/OIL/FILTER/AIR FILTER #17 - LUBE/OIL/FILTER #17 - SERPENTINE BELT	R	11/12/2009		75.00CR 437.07CR 846.83CR 65.97CR 49.68CR 115.45CR	058432 058432 058432 058432 058432 058432	1,590.00
MED02	MEDIA GRAPHICS, INC. I-13583	ENVELOPES - PD (5,000)	R	11/12/2009		221.84CR	058433	221.84
OFF09	OFFICE DEPOT I-494190996001	OFFICE SUPPLIES - PD	R	11/12/2009		601.93CR	058434	601.93

A / P CHECK REGISTER

11/12/2009 10:20 AM
 PACKET: 00374 Regular Payments
 VENDOR SET: 01
 BANK : AP AP - CASH CLEARING (POOL)

VENDOR	NAME / I.D.	DESC	CHECK TYPE	CHECK DATE	DISCOUNT	AMOUNT	CHECK NO#	CHECK AMOUNT
OFF12	OFFICEMAX INC. I-888635	COPY PAPER - 40 CASES	R	11/12/2009		1,500.27CR	058435	1,500.27
PAC10	PACIFIC TECHNOLOGY CCTV I-6003	CCTV SERVICE/REPAIR - PD	R	11/12/2009		662.32CR	058436	662.32
PGE01	PG&E I-102609	6345507202-3 OCT + TRUE UP	R	11/12/2009		31,744.80CR	058437	31,744.80
PRE06	PRECISION WIRELESS SERVICE I-19965	RADIO SVC - PD	R	11/12/2009		104.50CR	058438	104.50
	I-20021	#18 - RADIO SVC	R	11/12/2009		185.71CR	058438	290.21
RAN03	RANCHO COTATI LACROSSE I-110209	RFD PARK RENTAL DEPOSIT 10/17	R	11/12/2009		250.00CR	058439	250.00
ROY02	ROYAL COACH CAR WASH I-OCT2009	PD CARWASH - OCT 2009	R	11/12/2009		73.00CR	058440	73.00
SAC02	SACRAMENTO VALLEY ASSOC OF BLDG OFFICIALS I-111009	PHOTOVOLTAIC SEMINAR 11/17/09	R	11/12/2009		90.00CR	058441	90.00
SAN09	SANTA ROSA AUTO PARTS I-448232	#19 - VEHICLE SUPPLIES	R	11/12/2009		26.17CR	058442	26.17
	I-448240	PW SUPPLIES - VAC TRUCK	R	11/12/2009		17.90CR	058442	44.07
SAN13	SANTA ROSA JUNIOR COLLEGE I-10-00324	ENROLLMENT-GALLO 10/10/09	R	11/12/2009		13.00CR	058443	13.00
SCP01	S.C. PHILLIPS ENTERPRISES, LLC I-20091008	GENERATOR SVC - PD	R	11/12/2009		391.45CR	058444	391.45
SIE07	SIERRA DISPLAY, INC. I-13384	CHRISTMAS LIGHT BULBS (725)	R	11/12/2009		323.53CR	058445	323.53
SON08	SONOMA COUNTY WATER AGENCY I-10163	AQUEDUCT USAGE 9/30-10/27/09	R	11/12/2009		27,985.06CR	058446	27,985.06
SON09	SONOMA COUNTY RECORDER I-110309	PRE-PAY ACCOUNT TO \$100	R	11/12/2009		82.00CR	058447	82.00
SON19	SONOMA COUNTY AUDITOR-CONTROLLER I-101909	PARKING CITATIONS - SEPT 2009	R	11/12/2009		247.00CR	058448	247.00

PACKET: 00374 Regular Payments

VENDOR SET: 01

BANK : AP AP - CASH CLEARING (POOL)

VENDOR	NAME / I.D.	DESC	CHECK TYPE	CHECK DATE	DISCOUNT	AMOUNT	CHECK NO#	CHECK AMOUNT
SON31	SONOMA COUNTY PUBLIC SAFETY CONSORTIUM I-10-01	CAD/RMS O&S (50%) REPL (100%)	R	11/12/2009		32,346.50CR	058449	32,346.50
SPE02	SPECTER INSTRUMENTS I-910014045	SCADA SUPPORT 1/10-12/10	R	11/12/2009		395.00CR	058450	395.00
STA03	STATEWIDE SUPPLY, INC. I-20142	LIVE BACTERIA - LIFT STATIONS	R	11/12/2009		438.66CR	058451	438.66
STA06	STANLEY CONVERGENT SECURITY SOLUTIONS I-6785472	CORP YARD SVC 12/1/09-2/28/10	R	11/12/2009		256.86CR	058452	256.86
STE03	ROBERT STEWART I-102809	CAR ALARM BATTERY/HARDWARE	R	11/12/2009		9.87CR	058453	9.87
SUM01	SUMMIT ENGINEERING INC. I-16220	CYPRESS TANK TECH REVIEW	R	11/12/2009		668.19CR	058454	668.19
SUN03	SUN BADGE CO. I-309709	EXPLORER BADGES (7)	R	11/12/2009		484.82CR	058455	484.82
THO08	DIANNE THOMPSON I-111209	REIMB CCMF SEMINAR REG	R	11/12/2009		300.00CR	058456	300.00
TMC01	TIM MCCLOSKEY ELEC. INC. I-5043	AQUEDUCT VALVE SERVICE	R	11/12/2009		186.75CR	058457	186.75
TRU01	TRUGREEN LANDCARE I-6642294	LANDSCAPE SVCS - NOV 2009	R	11/12/2009		4,430.65CR	058458	4,430.65
UNI03	UNION BANK OF CALIFORNIA I-2093	ADMIN LTD OBLIG BOND 2001-SSEP	R	11/12/2009		2,540.00CR	058459	2,540.00
VER02	VERIZON WIRELESS I-0809166391	#270579820-00001 9/22-10/21/09	R	11/12/2009		457.55CR	058460	457.55
WIL02	WILLIAMS USA, LLC I-3837	WATER TANK LEVEL REPORTING	R	11/12/2009		14.95CR	058461	14.95
YOU03	YOUR COMPUTER HEROES, LLC I-2009137	NETWORK SVCS - OCT 2009	R	11/12/2009		337.50CR	058462	337.50

PACKET: 00374 Regular Payments

VENDOR SET: 01

BANK : AP AP - CASH CLEARING (POOL)

VENDOR NAME / I.D.	DESC	CHECK TYPE	CHECK DATE	DISCOUNT	AMOUNT	CHECK NO#	CHECK AMOUNT
* * T O T A L S * *							
REGULAR CHECKS:							
		NO#	DISCOUNTS	CHECK AMT	TOTAL APPLIED		
		62	0.00	147,008.81	147,008.81		
HANDWRITTEN CHECKS:							
		0	0.00	0.00	0.00		
PRE-WRITE CHECKS:							
		0	0.00	0.00	0.00		
DRAFTS:							
		0	0.00	0.00	0.00		
VOID CHECKS:							
		0	0.00	0.00	0.00		
NON CHECKS:							
		0	0.00	0.00	0.00		
CORRECTIONS:							
		0	0.00	0.00	0.00		
REGISTER TOTALS:		62	0.00	147,008.81	147,008.81		

TOTAL ERRORS: 0

TOTAL WARNINGS: 0