



# City of San Leandro

Meeting Date: November 3, 2014

## Staff Report

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**File Number:** 14-458

**Agenda Section:** CONSENT CALENDAR

**Agenda Number:** 8.G.

**TO:** City Council

**FROM:** Chris Zapata  
City Manager

**BY:** Debbie Pollart  
Public Works Director

**FINANCE REVIEW:** David Baum  
Finance Director

**TITLE:** Staff Report for an Ordinance Repealing and Reenacting Title 3, Chapter 14 of the San Leandro Municipal Code Relating to Uniform Wastewater Discharge Regulations (updates definitions and pretreatment standards, expands grease interceptor requirements) and for an Ordinance Amending Title 3, Chapter 18 of the San Leandro Municipal Code Relating to Enforcement of Environmental Regulations (includes authority to issue Notices of Violation)

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### SUMMARY AND RECOMMENDATIONS

Audits by oversight agencies identified deficiencies in San Leandro's environmental program enforcement ordinances. To correct these deficiencies, Title 3, Health and Safety, Chapter 14 (Uniform Wastewater Discharge Regulations (UWDR)) and Chapter 18 (Environmental Enforcement), need to be amended. Staff recommends that the City Council:

1. Approve an Ordinance repealing and reenacting Title 3, Chapter 14 relating to Uniform Wastewater Discharge Regulations.
2. Approve an Ordinance amending Title 3, Chapter 18 relating to environmental enforcement.

### BACKGROUND

San Leandro's Municipal Code sections pertaining to pretreatment program implementation and enforcing local codes related to environmental programs have not undergone any significant revision since 2001. The Municipal Code does not provide environmental inspectors the authority to issue Notices of Violation. The Uniform Wastewater Discharge Regulations need to be updated to conform to current required standards. In addition, staff added pretreatment standards to the grease interceptor requirements section. Other cleanup of Municipal Code language and content were combined into these recommended revisions.

### Analysis

The revisions to the UWDR and Environmental Enforcement chapters will respond to identified deficiencies and conform the pretreatment program with current regulatory standards. Current policy to maintain control of regulatory programs at the local level in lieu of those programs being implemented by a county, state or federal agency provides a higher degree of integration and strategic planning into the overall plan and development of the City. It promotes stability, consistency and provides a local single point of contact within the community.

### **Previous Actions**

- March 19, 2001 Ordinance No. 2001-05 amended Title 3, Chapter 14, UWDR.
- December 5, 2011 Ordinance No. 2011-12 amended Section 3-14-640, UWDR
- March 19, 2001 Ordinance No. 2001-07 amended Title 3, Chapter 18, Environmental Enforcement.
- December 9, 2002 Ordinance No. 2002-032 amended Section 3-18-135, Environmental Enforcement.

### **Applicable General Plan Policies**

- General Plan, Policy 32.06, Illicit Discharges. Control illicit discharges into the City's stormwater system through inspections, compliance evaluations, enforcement programs, and tracking activities.
- General Plan, Policy 32.07, Pretreatment Requirement. Maintain and enforce pre-treatment requirements for industries as needed to minimize the discharge of potentially toxic materials into the City's sanitary sewer system.
- General Plan, Policy 33.0, Regulatory Compliance. Work with the appropriate county, regional, state, and federal agencies to develop and implement programs for hazardous waste reduction, hazardous material facility siting, hazardous waste handling and disposal, public education, and regulatory compliance.

### **Fiscal Impacts**

There is no fiscal impact associated with these recommendations.

## **ATTACHMENT**

### **Attachment to Ordinance**

- Title 3, Chapter 14, UWDR, with additions in underline and deletions in strikethrough text.

**PREPARED BY:** Judy Walker, Administrative Analyst I, Water Pollution Control Division



# City of San Leandro

Meeting Date: November 3, 2014

## Ordinance

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**File Number:** 14-459 **Agenda Section:** CONSENT CALENDAR

**Agenda Number:**

**TO:** City Council

**FROM:** Chris Zapata  
City Manager

**BY:** Debbie Pollart  
Public Works Director

**FINANCE REVIEW:** David Baum  
Finance Director

**TITLE:** ORDINANCE Repealing and Reenacting Title 3 (Health and Safety), Chapter 14 of the San Leandro Municipal Code Relating to Uniform Wastewater Discharge Regulations (updates definitions and pretreatment standards, and expands grease interceptor requirements)

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The City Council of the City of San Leandro does **ORDAIN** as follows:

**SECTION 1. PURPOSE.** The purpose of this repeal and reenactment is to conform pretreatment standards in the Municipal Code with current regulatory standards and practices. In addition, grease interceptor requirements are expanded.

**SECTION 2. AMENDMENT OF CODE.** Title 3, Chapter 14 of the San Leandro Municipal Code is hereby repealed and reenacted to read as follows, with additions in underline and deletions in strikethrough text:

[Text of Chapter in attached document]

**SECTION 3. SEVERABILITY.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of San Leandro hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.

**SECTION 4. EFFECTIVE DATE AND PUBLICATION.** This ordinance shall take effect thirty (30) days after adoption. The City Clerk is directed to publish the title once and post a

complete copy thereof on the City Council Chamber bulletin board for five (5) days prior to adoption.

## ARTICLE 1. PURPOSE.

### Section 3-14-100. Purpose.

The purpose of this Chapter is to:

- (a) Provide for and regulate the disposal of sanitary sewage and industrial wastes into the City sanitary sewer system in such manner and to such extent as is reasonably necessary to maintain and increase the ability of such system to handle and dispose of sanitary sewage and ~~said~~ industrial wastes;
- (b) Improve opportunities to recycle and reclaim treated effluent and wastewater sludge;
- (c) Protect the physical structures of the ~~said~~ sewer system and the efficient functioning of its component parts;
- (d) Protect the City and its personnel, and preserve and protect the health, safety and comfort of the public;
- (e) Comply with all applicable and compatible laws, rules, regulations and orders of the State of California and the United States.

## ARTICLE 2. DEFINITIONS

### Section 3-14-200. Definitions.

Words, phrases or terms not specifically defined herein, and having a technical or specialized meaning shall be defined as set forth in 40 CFR Parts 136, 401, and 403.

In addition, terms defined herein shall have the same meaning as those terms are defined by the Porter Cologne Water Quality Act and the Federal Water Pollution Control Act as amended in 1972.

Unless the context indicates otherwise, the following words and terms all have the meaning defined herein.

(a) — Act or "The Act" shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq. **See Federal Act.**

(b) — Approval Authority. Approval Authority shall mean United States Environmental Protection Agency or its authorized designee. **See EPA.**

(c) — Authorized Representative of Industrial User. Authorized Representative of Industrial User shall mean ~~one of~~ the following:

(1) A responsible corporate officer as defined in 40 CFR 403.12(6)(1) **403.12(I)(1)**;

(2) A general partner **or proprietor** of a partnership or **sole** proprietorship, respectively, **as provided in 40 CFR 403.12(I)(2)**;

(3) A duly authorized representative of the individual designated ~~above~~ **in (1) or (2)**, if such representative is responsible for the overall operation of the facilities from which the discharge originates **subject to the requirements of 40CFR 403.12(I)(3)&(4)**.

(d) — **Beneficial Uses**. Beneficial Uses shall mean uses of the Waters of the State that may be protected against quality degradation including, but not necessarily limited to, domestic, municipal, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, navigation and the preservation and enhancement of fish, wildlife and other aquatic resources or reserves, and other uses, both tangible or intangible as specified by **in** Federal or State law.

**Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 403.5(a)(1) and (b). BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.**

(e) — **Biochemical Oxygen Demand (BOD)**. Biochemical Oxygen Demand (BOD) shall mean the quantity of oxygen demanded in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at twenty (20) degrees centigrade ~~expressed in terms of concentration of milligrams per liter (mg/L)~~.

(f) — **Building Sewer**. Building Sewer shall mean a sewer **the piping** conveying wastewater from the premises of a User to the City of San Leandro sanitary sewer system. **See Sewer Lateral, Private Sewer Lateral.**

(g) — **Categorical Pretreatment Standard**. Categorical Pretreatment Standard shall mean any regulation containing pollutant discharge limits promulgated by EPA in accordance with § 307(b) and (c) of the Act that apply to a specific category of users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

(h) — **City**. City shall mean the City of San Leandro.

(i) — **City Manager**. City Manager shall mean the individual appointed by the City of San Leandro governing body (City Council) with responsibility and authority for all functions of local government. **See Manager.**

**Code of Federal Regulations (CFR). Regulations adopted by the United**

## States Environmental Protection Agency.

(j) ~~Commercial User.~~ Commercial User shall mean any nonresidential user that the City determines will introduce primarily domestic sewage to the sewerage system.

(k) ~~Conventional Pollutant.~~ Conventional Pollutant shall mean biochemical oxygen demand, organic carbon, suspended solids, ammonia, nitrogen, pH, and total coliform bacteria, plus additional pollutants identified in the POTW's National Pollutant Discharge Elimination System (NPDES) Permit if the POTW was designed to treat such pollutant, and if such pollutants do not interfere with the operations of the POTW or adversely impact sludge use and disposal and, in fact, the POTW does remove such pollutant to a substantial degree.

(l) ~~Composite Sample.~~ Composite Sample shall mean a sample which **that** is collected manually or automatically, and discretely or continuously, based on time or flow intervals.

(m) ~~Conservative Pollutant.~~ Conservative Pollutant shall mean a pollutant that is not metabolized by the treatment processes in a conventional wastewater treatment plant. A conservative pollutant may be removed by the treatment processes and retained in the biosolids, may be volatilized and lost in fugitive air emissions, or may be discharged **with in** the plant's effluent. Although the pollutant may be chemically changed in **the a** treatment process, it can still be detected and may still be detrimental to the environment.

(n) ~~Contamination.~~ Contamination shall mean an impairment of the quality of the Waters of the State by waste to a degree which **that** creates a hazard to the public health through poisoning or **through** the spread of disease. Contamination shall include any equivalent effect resulting from the disposal of wastewater, whether or not Waters of the State are affected.

### Control Authority. The City's approved POTW pretreatment program.

**Conventional Pollutant. Conventional Pollutant shall mean biochemical oxygen demand, organic carbon, suspended solids, ammonia, nitrogen, pH, and total coliform bacteria, plus additional pollutants identified in the POTW's National Pollutant Discharge Elimination System (NPDES) Permit if the POTW was designed to treat such pollutant, and if such pollutants do not interfere with the operations of the POTW or adversely impact sludge use and disposal and, in fact, the POTW does remove such pollutant to a substantial degree.**

(o) ~~Cooling Water.~~ Cooling Water shall mean the water discharged from any use **used for cooling**, such as air conditioning, ~~cooling~~ **heat removal from industrial equipment**, or refrigeration, or to which the only pollutant added is heat.

~~(p) — Diluting Waters. Diluting Waters shall mean cooling water, domestic sewage, ground water, surface drainage or potable waters which are not parts of an industrial process and which do not contain constituents for which US-EPA pretreatment limitations apply but which are combined with industrial process wastewater prior to the monitoring.~~

~~(q) — Direct Discharge. Direct Discharge shall mean the discharge of treated or untreated wastewater directly to the Waters of the State of California.~~

~~(r) — Director. Director shall mean the City Manager, or his or her designee, including authorized personnel.~~

~~(s) — Domestic Sewage. Domestic Sewage shall mean liquid and waterborne wastes derived from the ordinary living processes, free from industrial wastes, and of such character as to permit satisfactory disposal, without special treatment, into the City's **sanitary** sewerage system.~~

~~(t) — East Bay Dischargers Authority. East Bay Dischargers Authority shall mean the joint powers of authority comprised of the City of Hayward, the City of San Leandro, the Oro Loma Sanitary District, the Castro Valley Sanitary District, and the Union Sanitary District.~~

~~(u) — EPA. EPA shall mean the United States Environmental Protection Agency. **See Approval Authority.**~~

**Fats, Oil and Grease (FOG). Organic compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. Fats, oil and grease are generated from food production, preparation and service, and kitchen cleanup. Throughout this Chapter, references to oils and grease include mineral/petroleum based oils and grease.**

~~(v) — Federal Act. Federal Act shall mean the Federal Water Pollution Control Act, PL 92-500, and any amendments thereto; as well as any guidelines, limitations, and standards promulgated by the EPA Environmental Protection Agency pursuant to the Act. **See Act.**~~

**Food Service Establishment. Any establishment that prepares and/or serves food for use or sale including, but not limited to, restaurants, cafes, cafeterias, commercial kitchens, catering kitchens, bakeries, hotels, schools, hospitals, correctional facilities, care institutions, grocery stores with food preparation, meat cutting and preparation, meat packing and any other food handling facilities where FOG may be introduced into the municipal sewer.**

~~(w) — Garbage. Garbage shall mean the putrescible solid waste from the domestic and partially prepared **preparation,** cooking and dispensing of food and from the handling, storage and sale of produce.~~



(x) — Grab Sample. Grab Sample shall mean a **discrete** sample collected from a waste stream ~~on a one-time basis with no regard to the flow of the waste stream.~~ Sample shall be collected over a period of time not to exceed **more than** fifteen (15) minutes.

(y) — Holding Tank Waste. Holding Tank Waste shall mean any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks, ~~and~~ **Sometimes** referred to as septic waste or septage.

(z) — Indirect Discharge. Indirect Discharge shall mean the discharge or the introduction of non-domestic pollutants from any source regulated under section 307 (b) or (c) of the Act into the POTW **City sanitary sewer system**.

(aa) — Industrial User. Industrial User shall mean all establishments engaged in producing, manufacturing, or processing operations, which result in the production **an entity that generates** and/or discharges into City **sanitary sewers system industrial waste** of industrial wastes; and all other establishments engaged in any activity resulting in the production and discharge to City sewers of industrial wastes.

(ab) — Industrial Waste. Industrial Waste shall mean the waste and wastewater **resulting** from any **activities such as** production, **testing, remediation,** manufacturing or processing operations of any nature including **and may include** institutional and commercial **entities**, operations if the wastewater is used for the removal of significant quantities of waste other than domestic sewage from premises connected to the POTW. **The term shall include the definition of process waste found at 40 CFR 401.11(g). See Wastewater.**

**Interceptor. A device, unit or installation constructed and operated for the purpose of removing and retaining dangerous, harmful, or prohibited constituents from wastewater before discharge to the City sanitary sewer system.**

(ac) — Interference. Interference shall mean the inhibition or disruption of the POTW treatment processes or operations which **that** contributes to a violation of any requirement of the City's NPDES permit **or affects**. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with **under** 40 CFR Part 503 and 405 of the Act, or **conformance to** any criteria, guideline, or regulation developed pursuant to the Solid Waste Disposal Act (SWDA) (42 U.S.C. Sections 6901 et seq.), the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria (including those contained ~~on~~ **in** any State Sludge Management Plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the Water Pollution Control Plant **City**.

(ad) — Major Contributing Industry. Major Contributing Industry shall mean any **an** Industrial User which **that** meets one or more of the following criteria:

(1) Class A - Industrial Users ~~who are~~ regulated by Federal Categorical Pretreatment Standards.

(2) Class B - Users not covered by Federal Categorical Pretreatment Standards, but ~~which~~ have the potential to discharge ~~toxic~~ regulated pollutants and must meet the pollutant limitations ~~set by the San Leandro Wastewater Discharge Ordinance~~ established in this Chapter and in individual permits issued by the Control Authority.

(3) Class C - Users that discharge conventional pollutants ~~loads~~ but could by themselves or combined with flow from another ~~industry~~ User overload the ~~treatment plant~~ City sanitary sewer system, causing the ~~plant~~ City to violate NPDES permit limits.

(4) Class D - Users that discharge wastewater from projects sources not associated with normal usual industrial or manufacturing processes. Projects Sources may include but are not limited to ~~groundwater cleanup, site remediation, trenching,~~ excavation, and leachate extraction.

~~(ae)~~ Manager. Manager shall mean the ~~San Leandro~~ City Manager or his or her his/her designee. See City Manager.

~~(af)~~ Mass Emission Rate. Mass Emission Rate shall mean the mass of material discharged to the City sanitary sewer system during a given time interval. Unless otherwise specified, the mass emission shall mean pounds per day of a particular constituent or combination of constituents.

~~(ag)~~ National Pretreatment Standard. National Pretreatment Standard shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307 (b) and (c) of the Act, which applies to Industrial Users. This term includes prohibitive discharge limits established ~~pursuant to~~ in 40 CFR Part 403.5.

~~(ah)~~ National Pollutant Discharge Elimination System or (NPDES) Permit. National Pollutant Discharge Elimination System ~~or (NPDES)~~ Permit shall mean a permit issued pursuant to Section 402 of the Act.

~~(ai)~~ National Prohibitive Discharge Standard or Prohibitive Discharge Standard. National Prohibitive Discharge Standard or Prohibitive Discharge Standard shall mean any regulation developed under the authority of 307 (b) of the Act and 40 CFR, Section 403.5.

~~(aj)~~ Natural Outlet. Natural Outlet shall mean any outlet into a watercourse, pond, ditch, lake, bay, ocean, or other body of surface water, or outlet into the ground water.

(ak) — New Source. New Source shall mean a facility an entity meeting the definition of a “New Source” set forth as defined at in 40 CFR Part 403.3 (km).

(al) — Nuisance. Nuisance shall mean any condition ~~which is~~ injurious to health or offensive to the senses or an obstruction to the free use of property so as to interfere with the comfort or enjoyment of life or property or ~~which~~ affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

(am) — Pass Through. Pass Through shall mean a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) as defined at 40 CFR 403.3 (np).

(an) — Person. Person shall mean any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include feminine, the singular shall include the plural where indicated by the context.

(ao) — pH. pH shall mean ~~a~~ the measure of the acidity or alkalinity of a liquid wastewater. pH is measured on a scale of 0 to 14, 0 being extremely acidic, 7 neutral, and 14 extremely alkaline. The pH corresponds to the logarithm (base 10) of the reciprocal concentration of hydrogen ions expressed in gram-ions per liter of solution.

(ap) — Pollutant. Pollutant shall ~~mean any dredge spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.~~ have the meaning as defined at 40 CFR 401.11(f).

(aq) — Pollution. Pollution shall mean an alteration of the quality of the Waters of the State by waste to a degree which unreasonably affects such waters for beneficial use or facilities which serve such beneficial uses. Pollution may include contamination. Pollution is further defined at 40 CFR 401.11(g).

(ar) — POTW - Publicly Owned Treatment Works. POTW - Publicly Owned Treatment Works shall mean a ~~sewage treatment plant~~ works as defined by Section 212 of the Act, which is owned by the City including and includes any sanitary sewers devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or liquid industrial waste. It also includes sewers, pipes, and lift stations that convey wastewater to the POTW treatment plant, including pipes, lift stations, sewers or other conveyances. POTW also means the City, which has jurisdiction over the Indirect Discharges to and the discharges from the treatment works. POTW is further defined at 40 CFR 403.3(q) and (r). “The City sanitary

**sewer system” is used throughout this Chapter to refer to the POTW. See Sewerage System, City.**

(as)—Premises. Premises shall mean a parcel of real estate including any improvements thereon ~~which is~~ determined by the City to be a single User for purposes of receiving, using, and paying for service.

(at)—Pretreatment or Treatment. Pretreatment or Treatment shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the City sanitary sewer system. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means except dilution. **Pretreatment is further defined at 40 CFR 403.3(s).**

(au)—Pretreatment Facility. Pretreatment Facility shall mean any facility or device for treatment, control or flow limitations of sewage or industrial waste, prior to discharge into the City sanitary sewer system.

(av)—Pretreatment Requirements. Pretreatment Requirements shall mean any substantive or procedural requirement related to pretreatment imposed on an Industrial User **other than National Pretreatment Standards. The term is defined at 40 CFR 403.3(t).**

(aw)—Private Sewer Lateral. Private Sewer Lateral shall mean any sewer lateral not maintained as part of the public City sanitary sewer system ~~by the public agency responsible for operation and maintenance of the system.~~ **See Building Sewer, Sewer Lateral.**

(ax)—Process Wastewater. Process Wastewater shall mean any water which, during manufacturing or processing, comes into contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product. **The term is defined at 40 CFR 401.11(g).**

(ay)—Reclaimed Water. Reclaimed Water shall mean wastewater ~~which~~ **that**, as a result of treatment of ~~waste~~, is suitable for ~~direct~~ **a** beneficial use ~~or a restricted beneficial use that would not otherwise occur.~~

(az)—Regional Water Quality Control Board. Regional Water Quality Control Board shall mean the California Regional Water Quality Control Board, San Francisco Bay Region.

(ba)—Sanitary Sewer. ~~Sewer, sanitary sewer, City sanitary sewer or POTW~~ shall mean a pipe or conduit ~~which~~ **that** carries domestic sewage and/or industrial wastes and to which storm, surface, and groundwaters are not intentionally admitted. A City sewer or public sewer is any sewer located within an easement or public right-of-

way and which that is maintained by the City of San Leandro.

(bb) ~~—Sewer Lateral.~~ Sewer Lateral shall mean the piping or conduits used to convey sewer wastewater from within a building or structure and ~~connecting the building or structure to a public or private sewerage collection, disposal and treatment system.~~ **See Building Sewer, Private Sewer Lateral.**

(bc) ~~—Sewerage System.~~ Sewerage System shall mean all sewers, facilities and appurtenances owned or operated by the City for carrying, collecting, pumping, treatment and disposal of waste and wastewater. **See POTW.**

(bd) ~~—Significant Industrial User.~~ Significant Industrial User shall mean:

- (1) ~~Any Industrial Users~~ subject to federal categorical pretreatment standards;
- (2) Any other Industrial User that:
  - Discharges to the POTW an average of twenty-five thousand (25,000) gallons or more of process wastewater per day;
  - Contributes process wastewater that making up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or;
  - Is designated as such by the Manager Control Authority on the basis that it the Industrial User has a reasonable potential to adversely eaffect the POTW's operation or to violate a pretreatment standard or requirement.

**The term is further defined at 40 CFR 403.3(v).**

(be) ~~—Significant Noncompliance.~~ Significant Noncompliance shall mean an **Significant** Industrial User's ~~is in violation of pretreatment standards under one or more meeting any~~ of the following criteria **or an Industrial User's violation of pretreatment standards meeting criteria (3), (4), or (8):**

(1) Chronic violations~~s~~ of wastewater discharge limits, defined herein as those in which sixty-six percent (66%) or more of all of the measurements taken during a six (6) month period exceed (by any magnitude) ~~the daily maximum limit or the average limit~~ **a numeric Pretreatment Standard or Requirement** for the same pollutant parameter, **including instantaneous limits, as defined by 40 CFR 403.3(l);**

(2) Technical Review Criteria (TRC) violations, defined herein ~~as those~~ in which thirty-three percent (33%) or more of all of the measurements **taken** for each **the same** pollutant parameter ~~taken~~ during a six (6) month period equal or exceed the

product or ~~of the daily maximum limit or the average limit~~ **numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l)**, multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oils and grease ~~(conventional pollutants)~~, **and** TRC = 1.2 for all other pollutants except pH);

(3) Any other violation of a ~~p~~**Pretreatment effluent limit (daily maximum or long term average) Standard or Requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard)** that the City determines has caused, alone or in combination with other discharges, interference or pass through (including endangering human health, property or the environment);

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the exercise of the City's emergency authority, under 40 CFR Part 403.8(f)(1)(vi)(B), to halt or prevent such a discharge;

(5) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a control mechanism or enforcement order;

(6) Failure to provide, within ~~thirty (30)~~ **forty-five (45)** days after the due date, required reports such as permit applications, baseline monitoring reports, periodic compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; **and**

(8) Any other violation or group of violations which **may include BMPs, that** the City determines will adversely affect the operation or implementation of the pretreatment program.

**Significant Noncompliance and its application are defined at 40 CFR 403.8(f)(2)(viii).**

(bf) ~~—~~ **Shall**. "Shall" is mandatory.

(bg) ~~—~~ **Slug Discharge**. Slug **Discharge** shall mean any ~~a~~ discharge at a flowrate or concentration that could cause the POTW to violate its NPDES permit. **of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge that has potential to cause interference or pass through, or in any other way violate the City's regulations, local limits, or permit conditions. Slug discharge is further defined at 40 CFR 403.8(f)(2)(vi).**

(bh) ~~—~~ **Standard Industrial Classification (SIC)**. Standard Industrial Classification (SIC) shall mean a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget.

(bi)—Storm Sewer. Storm Sewer shall mean a sewer **infrastructure that** which carries storm and surface waters and drainage, ~~but which~~ **and** excludes sewage and industrial waste.

(bj)—Storm Water. Storm Water shall mean any flow resulting from ~~and occurring during or following any form of~~ natural precipitation.

(bk)—Total Suspended Solids. Total Suspended Solids shall mean the total **mass or concentration of particles** suspended matter ~~that floats on the surface of, or is suspended in, water, wastewater or other liquids~~ **that will not pass through a filter,** and which is removable by laboratory filtering (in the application of EPA testing method **Method** 160.2).

(bl)—Toxic Pollutant Organics (TTO). Toxic Pollutant shall mean any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of Section 307 (a) of the Act or other applicable law. **For Users subject to federal categorical standards with defined TTO parameters, TTO shall be defined and applied per the applicable categorical standard to determine compliance with the federal standard. TTO standards for local limits compliance shall be the sum of those parameters in the list of toxic pollutants found at 40 CFR 401.15 that are detected at or above the Method Detection Limit at a value greater than 0.01 milligrams per liter by EPA Methods 624 and 625. For Users that may have potential to discharge additional toxic pollutants not specified herein, those additional parameters may be included as provisions in individual permits.**

(bm)—User. User shall mean any person who contributes, causes or permits the contribution of wastewater into the **City** sanitary sewer **system**.

(bn)—Waste. Waste shall mean domestic sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive associated with human habitation, or human or animal origin, or from or related to any ~~producing~~ **production**, manufacturing, or processing operation of whatever nature, including such waste placed within containers of ~~whatever nature~~ prior to, and for the purpose of, disposal.

(bo)—Wastewater. Wastewater shall mean waste and water, whether treated or untreated. **See Industrial Waste.**

(bp)—Wastewater Constituents and Characteristics. Wastewater Constituents and Characteristics shall mean the individual chemical, physical, bacteriological and radiological parameters, including volume and flow rate and such other parameters that serve to define, classify or measure the contents, quality, quantity and strength of wastewater.

(bq)—Water Quality Requirements. Water Quality Requirements shall mean

requirements for the City's treatment plant effluent established by the NPDES permit, or by State or Federal regulatory agencies. Water quality requirements include effluent limitations and waste discharge standards, limitations, or prohibitions which **that** may be established or adopted by State or Federal laws or regulatory agencies.

(br) — Waters of the City. Waters of the City shall mean any water, surface or underground, including saline waters within the boundaries of the City.

(bs) — Waters of the State. Waters of the State shall mean 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.

(bt) — Water Pollution Control Plant. Water Pollution Control Plant shall mean the City of San Leandro ~~Wastewater~~ **POTW** Treatment Plant.

(bu) — Abbreviations. The following abbreviations shall have the designated meaning:

·	BOD	-	Biochemical Oxygen Demand
·	CFR	-	Code of Federal Regulations
·	COD	-	Chemical Oxygen Demand
·	L	-	Liter
·	mg	-	Milligrams
·	mg/L	-	Milligrams per liter
·	NPDES	-	National Pollutant Discharge Elimination System
·	SIC	-	Standard Industrial Classification
·	TSS	-	Total Suspended Solids
·	IU	-	Industrial User

### ARTICLE 3. SEWER USE REGULATIONS.

#### Section 3-14-300. General Discharge Prohibitions.

A User may not introduce into the POTW any pollutant(s) which causes pass through or interference. These general prohibitions and the specific prohibitions in Section 3-14-305 and Section 3-14-310 of this Chapter apply to each User introducing pollutants into the POTW whether or not the User is subject to other National Pretreatment Standards or any other National, State or local pretreatment standards or requirements.

#### Section 3-14-305. Limitations on Wastewater Strength.

(a) No person shall discharge wastewater containing in excess of:



<u>Toxicant</u>	<u>Maximum Total Concentration Allowable (Milligrams Per Liter)</u>
Arsenic	0.1 mg/L
Cadmium	0.5 mg/L
Copper	2.0 mg/L
Cyanide	0.5 mg/L
Lead	0.8 mg/L
Mercury	0.01 mg/L
Nickel	0.5 mg/L
Silver	0.6 mg/L
Total Chromium	1.0 mg/L
Zinc	3.0 mg/L
Phenolic Compounds	1.0 mg/L
Total Toxic Organics	2.13 mg/L
Selenium	1.0 mg/L
Barium	100.0 mg/L
Beryllium	0.75 mg/L

(b) No person shall discharge any wastewater:

(1) Having a temperature higher than 140° F at the point of discharge or raise the POTW influent temperature above 104° F or that inhibits biological activity in the POTW resulting in interference.

(2) Any water or waste which contains more than one hundred (100) parts per million (100 ppm), by weight, of oil or grease of petroleum origin; which contains more than 100 ppm, by weight, of fat, oil or grease of animal or vegetable origin; or which contains grease or oil or other substances that will solidify or become discernibly viscous at temperatures between 32° to 140° F.

(3) Containing Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will, either singularly or in conjunction with other discharges, cause interference or pass through.

(4) Having a pH lower than 6.0 or higher than 12.4, or having a pH which will cause damage to the collection system or interfere with the POTW treatment processes.

Section 3-14-310. Specific Prohibitions on Discharges.

A User may not discharge the following substances to the sanitary sewer system:

(a) Fire or Explosion - Any pollutant with a closed cup flashpoint of less than 140°F (60°C). Any liquids, solids or gases which by reason of their nature or quantity

are, or may be sufficient either alone or by interaction with other substances to cause a fire or explosion or to be injurious in any other way to the POTW. At no time, shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the sanitary sewer (or at any point in the system) be more than five percent (5%) or any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.

(b) Obstruction of Flow - Solid or viscous substances which may cause obstruction of the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half (1/2) inch in any dimension, animal guts or tissues, paunch manure, bones, hair hides or fleshings, entrails, whole blood, feathers, ashes, cinders, wax, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, tar, asphalt residues, residuals from refining, or processing of fuel or lubrication oil, mud or glass grinding or polishing wastes.

(c) Toxic Pollutants - 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 to exceed the limitation set forth in a Categorical Pretreatment Standard.

(d) Noxious or Malodorous Substances - Any harmful or offensive gases or solids which, either singly or by interaction with other wastes, are sufficient to violate air quality standards at the POTW, create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(e) Disposal/Reclamation - Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludge, 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 a violation of the criteria, guidelines or regulations developed under Section 405 of the Act; or 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 or local criteria applicable to the sludge disposal site and the sludge management method being used.

(f) Permit Violation - Any substances which will interfere with the wastewater treatment process or cause the POTW to violate its NPDES permit or the receiving water quality standards.

(g) Detrimental Environmental Impact - Any substance which may have a harmful environmental impact or create a nuisance in the waters of the State or a

condition which violates the rules and regulations of any public agency having regulatory jurisdiction over the City, including but not limited to any statute or any rule, regulation, or ordinance of any public agency or State or Federal regulatory body.

(h) Discoloration - Any wastewater creating discoloration or any other condition in the quality of the POTW effluent such that receiving water quality requirements established by law cannot be met.

(i) Loadings - Any pollutants, including oxygen demanding pollutants (~~BOD, COD, suspended solids, heavy metals, oil and greases, etc.~~), released at a flow rate and/or pollutant concentration ~~which~~**that** will cause interference to the POTW.

(j) Hazard or Public Nuisance - Any waste, which in the opinion of the City may have an adverse or harmful effect on sewers, maintenance personnel, wastewater treatment plant personnel or equipment, treatment plant effluent quality, public or private property or may otherwise endanger the public, the local environment or create a public nuisance. The City shall, in determining the acceptability of specific wastes, consider the nature of the waste and the adequacy of the collection, treatment and disposal system available to accept the waste.

(k) Excessive Flow - Total quantities of flow or instantaneous peaks which, due to volume or manner of delivery, require a disproportionate share of the City's treatment plant capacity. This also includes flows which, alone or in combination with others, cause excessive treatment costs and/or treatment plant process upsets.

(l) Trucked or Hauled Wastes - No trucked or hauled pollutants shall be discharged into the City **sanitary** sewer system **except at discharge points designated by the POTW.**

#### Section 3-14-315. Discharge Into Storm Drain Prohibited.

It shall be unlawful to discharge any waste or wastewater into any storm drain or natural outlet unless the User has obtained an NPDES permit and the User is in compliance with all applicable rules and regulations of all other agencies having jurisdiction over such discharge.

#### Section 3-14-320. Prohibition on Storm Drainage and Ground Water.

Storm water, ground water, ~~rain water,~~ street drainage, subsurface drainage or yard drainage ~~will~~ **shall** not be discharged through direct or indirect connections to the sanitary sewer. The City may approve the discharge of such water only when no reasonable alternative method of disposal is available. If a permit is granted for the discharge of such water into the sanitary sewer, ~~the~~ User shall pay the applicable User charges and fees and meet such other conditions as required by the City.

Section 3-14-325. Prohibition on Use of Diluting Waters**Dilution as a Substitute for Treatment.**

No User shall ~~ever~~ 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 ~~all the~~ limitations contained in the Federal Categorical Pretreatment Standards (see Section 3-14-365 of this Chapter), or ~~in~~ any other limitation developed by the City, ~~or State,~~ **or USEPA.**

Section 3-14-330. Prohibitions on Radioactive Wastes.

No User shall, and it shall be unlawful to, discharge, cause to be discharged, or permit to be discharged, any radioactive waste into the sanitary sewer, provided, however, that:

(a) Users authorized to use radioactive materials by the State Department of Health or other governmental agency empowered to regulate the use of radioactive materials may discharge, cause to be discharged, or permit to be discharged such wastes, provided that such wastes are discharged in strict conformance with the then current State of California Code of Regulations, Title 17, any federal laws and regulations pertaining to radioactive materials, and any recommendations for safe disposal of such wastes as they now exist or may hereafter be amended; and

(b) The User so acting does so in compliance with all applicable rules and regulations of all other regulatory agencies having jurisdiction over such discharges.

Section 3-14-335. Limitations on Point of Discharge.

No User shall discharge any substance directly into a manhole or other opening in a community ~~the City sanitary sewer system~~ **the City sanitary sewer system** other than through an approved building sewer, unless **approved by the Control Authority** ~~upon written application by the User and payment of the applicable User charges and fees, the City issues a permit for such discharges.~~

Section 3-14-340. Limitations on Use of Garbage Grinders.

Waste from garbage grinders shall not be discharged into the sanitary sewer except where:

(a) Wastes are generated in preparation of food ~~normally~~ consumed in a residence **for household use;** or

(b) The User has an existing garbage grinder **that predates the original adoption of this section** and has approval for that specific use from the City. Such grinders must be repaired or replaced as necessary in order to at all times ensure that

the waste is shredded to a degree that all particles will be carried freely under normal flow conditions prevailing in the City sanitary sewer system. Garbage grinders shall not be used for grinding plastic, paper products, inert materials, garden refuse, and waste products resulting from the handling, storage and sale of equipment; ~~and~~

~~——(c)——~~ At any time the property or business subject to (b) changes ownership, ~~excluding residential property,~~ the existing garbage grinders on the property must shall be removed and no new garbage grinders may be installed ~~as a condition of continued City sanitary sewer service to the property.~~

#### Section 3-14-345. Prohibitions on Hospital Wastes.

Hospitals, clinics, offices of medical doctors, and convalescent homes shall not discharge to the sanitary sewer:

(a) Equipment, instruments, utensils, hypodermic needles, syringes and associated articles.

(b) Any article that may harbor or transmit pathogenic organisms and that are used in the rooms of patients having a suspected or diagnosed communicable disease which by the nature of the disease is required to be isolated.

(c) Recognizable portions of the human anatomy.

(d) Wastes excluded by other provisions of these regulations. Nothing in this section shall be construed to limit the authority of appropriate health agencies to define wastes as being infectious and to prohibit discharge to the sanitary sewer.

#### Section 3-14-350. Interceptor Required.

~~Grease, oil and sand interceptors shall be installed by the User when, in the opinion of the City, they are necessary for the proper handling of liquid wastes containing grease, flammable waste, sand or other harmful ingredients, except that such interceptors shall not be required for dwelling units. Toilets, urinals, wash basins and other fixtures containing fecal material shall not flow through the interceptor. All interceptors shall be of a type and capacity approved by the Manager. The interceptor shall be installed in conformity with approved plans and in accordance with all City Codes and regulations. The interceptor shall be located so as to be readily and easily accessible for cleaning and inspection. The interceptor shall be maintained in efficient operating condition by periodic removal of accumulated waste. Failure to clean or maintain the interceptor shall be a violation and subject to an enforcement action. No wastewater having excessive temperatures which will cause pass through of grease, shall be discharged to the grease interceptor for any duration. No chemicals shall be added to the interceptor that will cause pass through of grease. Abandoned grease interceptors shall be emptied and filled as required for abandoned septic tanks (Section 1119 of the Uniform Plumbing Code).~~

(a) Grease, oil and sand interceptors shall be installed by the User when, in the opinion of the City, they are necessary for the proper handling of liquid wastes containing grease, flammable waste, sand or other harmful materials, except that such interceptors shall not be required for dwelling units. Toilets, urinals, wash basins, showers and other fixtures containing fecal matter shall not flow through the interceptor.

(b) All interceptors shall be of a type and capacity approved by the Manager. The interceptor shall be installed in conformity with approved plans and in accordance with all City Codes and regulations.

(c) The interceptor shall be installed and connected so as to be readily accessible for inspection, cleaning and removal of grease.

(d) The interceptor shall be maintained in efficient operating condition by periodic removal of accumulated grease and solids. Unless otherwise approved by the Manager, grease interceptors must be pumped in full when the total accumulation of surface grease and settled solids reaches twenty-five percent-(25%) of the grease interceptor's overall liquid depth. All accumulated grease and solid materials shall be removed by a certified waste hauler licensed by the State of California. No accumulated FOG shall be introduced into any drainage piping or public or private sewer. The introduction of emulsifying agents such as chemicals, solvents or enzymes which will cause pass through of grease is strictly prohibited. Bacterial agents used to reduce FOG may be used in addition to regular maintenance, but shall not be a consideration in determining grease interceptor sizing or maintenance frequency. Wastewater in excess of one hundred and forty degrees Fahrenheit (140°F) shall not be discharged to the grease interceptor for any duration. Failure to clean or maintain the interceptor shall be a violation and subject to enforcement action.

(e) The User shall develop and maintain a record of periodic maintenance and cleaning / pumping of the interceptor. Records shall be retained for a period of not less than three (3) years.

(f) All fixtures, equipment and drain lines located in a Food Service Establishment which may contain fats, oil and grease (FOG) or other objectionable materials shall be connected to an appropriately sized grease interceptor. The following types of equipment or fixtures identified as a potential source of FOG include, but are not limited to: pre-rinse and/or pre-wash sinks or sinks in dishwashing areas; two or three compartment sinks; wok stoves; soup kettles; self-cleaning stove ventilation/exhaust hood; kitchen floor drains; kitchen floor trench; kitchen floor sinks; mop sinks; and food prep sinks. No sanitizing dishwashers are to be connected to drainage pipes conveying wastewater to a grease interceptor unless such connections are approved by the Manager.

**(g) Abandoned interceptors shall be emptied, disconnected and filled as required for abandoned septic tanks (Section 722.0 of the California Plumbing Code).**

Section 3-14-355. Application of ~~Most Stringent~~ Limitations.

~~The most stringent~~ **All** limitations, State, Federal, or **and** local shall apply.

Section 3-14-360. Supplemental Limitations.

The limitations on wastewater strength and prohibitions in these regulations may be supplemented ~~with more stringent limitation~~ if:

(a) The City determines that the **existing** limitations may not be sufficient to protect the operation of the POTW; or

(b) The City determines that the **existing** limitations may not be sufficient to enable the POTW to comply with water quality standards, or effluent limitations specified in the POTW's NPDES permit; or

(c) The discharge is of such a nature that it reduces or impairs the POTW's recycle, reclamation or disposal options; or

(d) In the Manager's evaluation, the discharge, alone or in combination with any other discharge, poses a threat or unreasonable risk to the POTW or personnel.

Section 3-14-365. Federal Categorical Pretreatment Standards.

**The Categorical Pretreatment Standards found in 40 Code of Federal Regulations Chapter I, Subchapter N, Parts 405-471 are hereby incorporated into this Chapter by reference. The provision of this Chapter shall conform to these incorporated provisions as they may be amended, unless explicitly modified within this Chapter.** Upon promulgation of the **a new or amended** Federal Categorical Pretreatment Standards ~~for a particular industrial subcategory~~, the new Federal Standard ~~or more stringent limitation~~ shall immediately **apply to all affected Users** supersede. The City will notify all affected Users of the applicable reporting requirements under 40 CFR 403.12. Regardless of notification, Industrial Users are required to comply with all applicable Pretreatment Standards and requirements.

Section 3-14-370. Proper Disposal of Sludge and Spent Chemicals.

The disposal of sludge, spent chemicals and hazardous materials generated shall comply with all applicable State, Federal and local laws, regulations and ordinances including: Section 405 of the Clean Water Act; Subtitles C & D of the Resource Conservation and Recovery Act; and Title 22, Division 4, Chapter 30 of the California Administrative Code. A record of disposal shall be maintained and available

for review by City staff.

Section 3-14-375. Authority to Require Pretreatment or Corrective Measures and Authority to Deny or Condition New, Increased or Changed Discharges.

Users shall make wastewater acceptable under the limitations established in these regulations before discharging to the sanitary sewer. Any pretreatment facilities required to pretreat wastewater to a level acceptable to the City shall be provided and maintained at the User's expense. In the event pretreatment or special facilities are required to make the industrial wastes acceptable, the User shall be required to furnish a compliance schedule and plans, approved prior to construction, showing the schedule of activities, time frame and method of pretreatment proposed. The pretreatment facility or measures shall be installed in conformity with the approved plans and other City Codes or regulations. The approval of the pretreatment method will in no way relieve the User from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of these regulations. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the City. The effectiveness of the pretreatment unit discharging to the sanitary sewer will be monitored by the City at the discharger's expense.

**Permitted Users** shall notify the City prior to the introduction of new wastewater or pollutants or any substantial change in the volume or characteristics of the wastewater being introduced into the POTW from User's industrial activities. The City may deny or condition any proposed discharge if the discharge may have potential to violate applicable pretreatment standards or cause the City to violate its NPDES permit. Proposed discharge shall not commence without prior City approval. A written request must be submitted not less than ~~thirty (30)~~ **sixty (60)** days prior to commencement of any proposed discharge.

Section 3-14-380. Notice to Employees—Discharge Regulations.

In order that employees of Users be informed of City requirements, Users shall make available to their employees copies of these regulations together with such other wastewater information and notices which may be furnished by the City from time to time directed toward more effective water pollution control.

**ARTICLE 4. WASTEWATER VOLUME DETERMINATION**

Section 3-14-400. Metered Water Supply.

User charges and fees shall be based on the total amount of water used from all sources unless, in the opinion of the City, significant portions of water received are not discharged to a **the** sanitary sewer. The total amount of water used from public and private sources will be determined by means of public meters or private meters,



installed and maintained at the expense of the User and approved by the City.

Section 3-14-405. Metered Wastewater Volume And Metered Diversions.

Where, in the opinion of the City, a significant portion of the water received from any metered source does not flow into the sanitary sewer because of the principal activity of the User or removal by other means, the User charges and fees will be applied against the volume of water discharged from such premises into the sanitary sewer. Written notification and proof of the diversion of water must be provided by the User if the User is to avoid the application of the User charges and fees against the total amount of water used from all sources. The User must install a meter of a type and at a location approved by the City and at the User's expense. Such meters may measure either the amount of sewage discharged or the amount of water diverted. Such meters shall be tested for accuracy every two (2) years at the expense of the User.

Where, in the opinion of the City, it is unnecessary or impractical for the ~~u~~User to install a meter, a conservative estimate of the quantity of wastewater may be used, provided it can be reasonably substantiated by the User. It is the User's responsibility to provide the City with justification for the desired adjustment. The request for an adjustment shall be based upon a rational determination of the wastewater diversion and may consider such factors as the number of fixtures, production of goods and services or such other determinants of water used in process and not discharged to the sanitary sewer. The User must submit a description of the justification and methodology for estimating the unmetered volume, in writing, to the City for approval.

ARTICLE 5. REPORTS AND PERMITS.

Section 3-14-500. Periodic Reports and Baseline Monitoring Reports.

(a) The City may require any User to file a periodic report. The report may include, but need not be limited to, nature of process, volume, rates of flow, hours of operation, number and classification of employees, or other information which relates to the generation of waste including wastewater constituents and characteristics in the wastewater discharge or alternate means of disposal. Such report may also include the chemical constituents of liquid or gaseous materials stored on site even though they may not normally be discharged. In addition to reports, the City may require information in the form of Permit applications, self-monitoring reports, status reports, technical reports, hazardous waste disposal records, operation and maintenance records, compliance reports and compliance schedule progress reports.

(b) All Users shall promptly notify the Manager by any standards means of communication in advance of any change in volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the User has submitted initial notification under local, Federal or State notification requirements.

(c) All Users shall notify the Manager, the EPA Regional Waste Management

Division Director, and State hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification shall include the name of the hazardous waste as set forth in 40 CFR Part 261, the **applicable waste code** EPA hazardous number and the type of discharge (continuous, batch or other). If the discharge exceeds one hundred (100) kilograms of hazardous waste or any amount of acute hazardous waste in any calendar month, the notification shall also contain the following information: An identification of the hazardous constituents contained in the wastes, the mass and concentration of such constituents in the wastestream discharged during that calendar month and the mass of the constituents in the wastestream expected to be discharged during the following twelve (12) months. In the case of any notification made under this paragraph, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated.

(d) Within 180 days after the effective date of a Categorical Pretreatment Standard or 180 days after the final administrative decision made upon a category determination submission under 40 CFR Part 403.6(a)(4), whichever is later, existing Users subject to such Categorical Pretreatment Standards and currently discharging to or scheduled to discharge to the POTW are required to submit to the Manager a Baseline Monitoring Report (BMR). At least 90 days prior to commencement of discharge, new sources, and sources that become Industrial Users subsequent to the promulgation of an applicable categorical standard are required to submit to the Manager a Baseline Monitoring Report (BMR). The BMR shall contain the information as required in 40 CFR Part 403.12(b). Part 403.12(b) of 40 CFR and any amendments thereto are incorporated by reference into this ordinance **Chapter**.

**(e) 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 discharge for the regulated process, any User subject to such pretreatment standards and requirements shall submit to the Manager a report documenting compliance with the Categorical Standard deadline. The report shall contain at a minimum the information required by 40 CFR 403.12(b)(4)-(7). For Users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall also contain the long term production rate. For all other Users subject to a production based categorical standard the report shall include the actual production during the appropriate sampling period. All compliance reports must be signed and certified pursuant to §3-14-555 of this Chapter.**

#### Section 3-14-505. Permit Application.

All major contributing industries and industries using/discharging EPA priority pollutants shall complete and file with the Manager, a permit application accompanied by the applicable fees. The applicant may be required to submit, in units and terms appropriate for evaluation, the following information, including, but not limited to:

- (a) Name, address and ~~User~~ classification number **code** (SIC) of applicant;
- (b) Volume of wastewater to be discharged;
- (c) Wastewater constituents and characteristics ~~including but not limited to those mentioned in these regulations as determined by a state certified laboratory;~~
- (d) Time and duration of discharge;
- (e) Average and maximum wastewater flow rates, including daily, monthly and seasonal variations, if any;
- (f) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers and appurtenances by size, location and elevation;
- (g) Description of activities, facilities and plant processes on the premises including all materials, ~~processes and types of materials which are~~ **that will** or could be discharged;
- (h) Each product produced by type, amount, and rate of production;
- (i) Number and type of employees, and hours of work;
- (j) Spill prevention plans;
- (k) Solvent management plans;
- (l) Pollution prevention plan;
- (m) Storm water pollution prevention plan and monitoring plan;
- (n) Any other information as may be deemed by the City to be necessary to evaluate the permit application.

The City will evaluate the data furnished by the User and may require additional information. After evaluation and approval of all the data required, the City may issue a permit, subject to specific terms or conditions provided therein. The holder of all permits issued hereunder shall be subject at all times to all applicable Federal, State, and local laws and regulations.

Section 3-14-510. Major Contributing Industries.

All major contributing industries proposing to discharge into the City sanitary sewer must obtain a permit within sixty (60) days of the commencement of operation.

Section 3-14-515. Industrial Users.

Industrial Users may be required to obtain a permit if their discharge is regulated by any provisions of these regulations, State or Federal regulations, or at the discretion of the Manager. Under the following circumstances, a new or amended permit application must be filed with the City:

- (a) Upon change of ownership of the property ~~served~~; or
- (b) Upon change of occupancy; or
- (c) Upon change of any activity ~~resulting~~ **that results** in a change in the type of industrial/hazardous wastewater generated.

~~The~~ **holder** of ~~all~~ permits issued shall be subject at all times to all applicable Federal, State, and local laws and regulations. At no time and in no way, ~~shall~~ **does** the holder of any permit acquire, or be regarded as having acquired, a vested or continuing right to maintain, or to have continued, ~~any~~ connection to the City sanitary sewer.

Section 3-14-520. Permit Conditions.

Permits shall be subject to all provisions of these regulations and all other regulations, User charges and fees established by the City. The conditions of permits shall be uniformly enforced by the City in accordance with these regulations, and applicable State and Federal regulations. Permits may contain restrictions and requirements including but not limited to the following:

- (a) Separation of industrial wastewater from domestic sewage prior to discharge to the City sanitary sewer;
- (b) Limits on the average and maximum wastewater constituents and characteristics;
- (c) Requirements for installation of inspection and sampling facilities;
- (d) Pretreatment requirements;
- (e) Compliance schedules;
- (f) Specifications for self-monitoring programs which may include sampling locations, frequency, and method of sampling, number, types and standards for tests, and reporting schedules;
- (g) Requirements for submission of technical reports, progress reports or discharge reports;
- (h) Requirements to pay applicable User charges or fees within thirty (30)

days of invoice;

(i) Requirements for maintaining plant records relating to wastewater discharge as specified by the City, and allowing access to those records;

(j) ~~Establish~~ mM Mean and maximum mass emission rates, or other appropriate limits when conservative or toxic pollutants are proposed or present in the User's wastewater discharge;

(k) Other conditions or requirements as deemed appropriate by the City to ensure compliance with these regulations.

Section 3-14-525. Duration of Permits.

Permits shall be issued for a specified time period, not to exceed five (5) years. If the User is not notified by the City thirty (30) days prior to the expiration of the permit, the permit shall be extended one (1) additional year. The terms and conditions of the permit may be subject to modification and change by the City during the life of the permit as limitations or requirements as identified in these regulations or applicable State or Federal regulations are modified and changed. The User shall be informed of any proposed pertinent changes at least thirty (30) days prior to the effective date of change. ~~Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.~~

Section 3-14-530. Transfer of a Permit.

Permits are issued to a specific User for a specific operation. A Permit shall not be reassigned or transferred or sold to a new owner, new User, different premises, or a new or changed operation.

Section 3-14-535. Revocation of Permit.

Any User who violates the following conditions of the permit or any conditions of these regulations, or applicable State and Federal regulations, is subject to having its permit revoked:

(a) ~~Failure of a User~~ Failure to factually report the wastewater constituents and characteristics of its discharge;

(b) ~~Failure of the User~~ Failure to report significant changes in operations, or wastewater constituents and characteristics;

(c) Refusal of reasonable access to the User's premises for the purpose of inspection or monitoring;

(d) Violation of conditions of these pretreatment standards or regulations or

of the permit conditions; or

(e) Failure to pay applicable fees and charges **within sixty (60) days of invoicing.**

Section 3-14-540. Refusal to Issue a Permit.

The Manager may refuse to issue a permit if any one or more of the following conditions exist:

~~— (a) Appropriate fee(s) are not paid within sixty (60) days of permit issuance.~~

~~(b)~~ (ba) The application for a permit contains false or misleading information.

~~(cb)~~ The issuance of the permit would result in the discharge of industrial wastes of such quantity or strength that the public health or safety, or public or private property are **is** endangered.

~~(dc)~~ The issuance of the permit would cause the POTW to violate any permit conditions, laws, or regulations of the State and/or Federal government.

~~(ed)~~ The applicant has not provided plans for sufficient protection from accidental discharges to the sanitary sewer system or the environment.

Section 3-14-545. Confidential Information.

All **User** information and data on a User obtained from reports, questionnaires, permit applications, permits, and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the User specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods which would be detrimental to the User's competitive position **is confidential business information within the meaning established at 40 CFR 2.201. Pursuant to 40 CFR 403.14(b), effluent information and data is not subject to confidentiality.**

~~When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes~~ **Information deemed confidential** shall not be made available for inspection by **to** the public but shall be made available to governmental agencies for use in making studies, provided, however, that such portions of a report shall be available **and** for use by the State or any State agency in judicial review or enforcement proceedings involving the person furnishing the report.

As outlined in 40 CFR Parts 403.8, and 403.14 and under section 308**(b), (c), and (d)** of the Clean Water Act, all information contained in an Industrial User's file and/or submitted by an Industrial User will be available at all times to the Environmental

Protection Agency, **State agencies concerned with carrying out the Act, and other entities as specified within the section.**

~~Wastewater constituents and characteristics will not be recognized as confidential information.~~

The City shall not be liable in damages to any permit applicant or User for any negligent disclosure of any ~~trade secret~~ **confidential business information** furnished to the City.

**Section 3-14-550. Special Agreements.**

Special agreements and arrangements between the City and any persons or agencies may be established when, in the opinion of the City, unusual or extraordinary circumstances compel special terms and conditions. At no time shall special agreements be established when said agreement violates any local limits, specific numerical prohibitions and/or Federal Pretreatment Standard or Requirement.

**Section 3-14-555. Signatory Requirements.**

All reports, permit applications or agreements shall be signed as follows: By a responsible corporate officer, if the User is a corporation; by a general partner or proprietor if the User is a partnership or sole proprietorship respectively; by a duly authorized representative of the designated individual above provided the authorization is submitted in writing to the City.

If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the signatory requirements above shall be submitted prior to or together with any reports to be signed by an authorized representative.

Any person signing reports, permit applications or agreements shall make the following certification:

“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.”

**ARTICLE 6. ACCIDENTAL DISCHARGE.**

Section 3-14-600. Protection from Accidental Discharge.

Each User shall provide protection from accidental discharge of prohibited materials regulated by ~~these regulations, by State or Federal regulations,~~ **Pretreatment Standards or Requirements** or other wastes determined to be harmful or hazardous by State or Federal regulations into the City's sanitary sewer and/or storm sewer. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the User's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review, and shall be approved by the City before construction of the protective facilities. It is the User's responsibility to submit plans which are in compliance with Federal, State and local regulations.

The review and approval of such plans and operating procedures will in no way relieve the User from the responsibility of modifying the facilities as necessary to ~~provide the protection necessary to~~ protect the sanitary or storm sewer system. The review and approval of such plans will in no way relieve the User of any responsibility or liabilities in the event of a spill or accidental discharge.

Section 3-14-605. Notification of Accidental Discharge.

Users shall immediately notify the POTW upon accidentally discharging wastes in violation of these regulations and/or discharging a slug load to enable counter measures to be taken by the City to minimize damage to the sewerage system and the receiving waters. This notification does not relieve the User of the responsibility of notifying all other required agencies as outlined in the California Code of Regulations, Title 19, and other applicable regulations.

The initial notification shall be followed, within fifteen (15) days of the date of occurrence, by a detailed written statement to the Manager describing the causes of the accidental discharge and the measures being taken to prevent future occurrences. Such notification will not relieve Users of liability for any expense, loss or damage, or for any fines imposed by the City, or for other violations of Federal, State, or local law where applicable.

Section 3-14-610. Accidental Discharge—Record Keeping.

Any person, ~~firm, or corporation~~ responsible for any unauthorized discharge shall keep accurate records of the events of the discharge at the time of the discharge. The record shall include all pertinent information related to the unauthorized discharge, including, but not limited to, ~~;~~ dates, times, names of parties involved, volume of discharge, substance discharged, agencies notified and corrective action taken. Discharger shall keep all records related to the unauthorized discharge for at least five (5) years. Records shall be available for review, ~~;~~ by the City, ~~;~~ upon request.



Section 3-14-615. Accidental Discharge—Liabilities.

Any person, firm or corporation responsible for any unauthorized discharge shall institute and complete all actions necessary to remedy the effects of such unauthorized discharge, whether sudden or gradual, with the cost borne by the discharger. When deemed necessary by the Manager, identification and clean-up of the discharge may be initiated by the City or by an authorized individual or firm. All costs associated with such clean-up shall be borne by the owner, User or other person responsible for the unauthorized discharge.

In the event that the clean-up costs are less than the cost of legal disposal, a fine may be levied. The fine may be the difference between the cost of legal disposal and the actual cleanup cost, plus twenty-five percent (25%) of the total amount.

Section 3-14-620. Accidental Discharges—Notices to Employees.

A notice shall be furnished and permanently posted in a conspicuous place on the premises of each commercial or industrial User advising employees whom to call in case of an accidental discharge in violation of these regulations.

Section 3-14-625. Employees—Discharge Regulations.

In order that employees of Users be informed of City requirements, Users shall make available to their employees copies of these regulations together with other environmental information and notices which may be furnished by the City.

Section 3-14-630. Preventive—Accidental Discharge.

The User shall provide adequate containment of **materials that are prohibited from discharge or could have a deleterious effect in the event of an accidental discharge** ~~all persistent or deleterious waste products.~~ The User shall be responsible for protecting the City sewer inlets from intentional or unintentional discharges of **such materials** ~~non-approved/incompatible wastes.~~ All points of entry to the sanitary sewer are subject to review and approval by the City. Potential points of entry **for accidental discharge** ~~of incompatible pollutants~~ must be clearly labeled to **provide warning** ~~against accidental discharge.~~ The User shall be responsible for immediately reporting any **accidental** ~~discharge of any incompatible pollutants~~ to the sanitary sewer.

Section 3-14-635. Development of a Slug/Spill Control Plan.

All Users, ~~including SIUs,~~ are required, when requested by the City, to develop and implement a Slug/Spill Prevention Plan. Each plan shall include **as at** a minimum; discharge practices (including non-routine batch discharges), guidelines for storage of chemicals, location of chemical storage, procedures to notify the POTW immediately of slug discharges **and spills**, operation and maintenance procedures, general housekeeping practices, training programs, and other ~~important~~ information as required.

**Slug control plan elements are specified at 40 CFR 403.8(f)(2)(vi).**

**Section 3-14-640. Private Sewer Laterals and Sewer Overflows.**

The operation, maintenance, and repair of private sewer laterals are the responsibility of the property owner or User. Any person, ~~firm or corporation~~ responsible for a sewer overflow shall take immediate action to contain, control, and cease the unauthorized discharge and institute and complete all actions necessary to remedy the effects of such unauthorized discharge, whether sudden or gradual, with the cost borne by the discharger. When deemed necessary by the Manager, clean-up of the discharge may be initiated by the City or by an authorized individual or firm. All costs associated with such clean-up shall be borne by the owner, User or other person responsible for the sewer overflow.

**ARTICLE 7. MONITORING AND INSPECTION**

**Section 3-14-700. Sample Collection.**

The collection of samples of wastewater for the measurement of constituents controlled by Sections 3-14-300 through 3-14-310 of this Chapter shall be at the combined facility discharge. The **Monitoring locations for the** collection of samples of wastewater for the measurement of constituents controlled by National Pretreatment Standards are specified in the applicable Federal Regulation **point source category Part in 40 CFR** and may be at the discharge of the regulated process, or after pretreatment of federally regulated process flows, ~~and prior to the addition of diluting waters.~~

**Section 3-14-705. Self-monitoring.**

Where self-monitoring is required, such monitoring shall be provided by the User at the User's expense, **and analyzed** using **approved methods in** a laboratory certified by the State and approved by the City to perform said analysis **such analyses**. **Significant Industrial Users that are required to submit periodic self-monitoring reports shall report the results of all monitoring of regulated pollutants at the designated sampling point.**

**If self-monitoring performed by a User indicates a violation, the User shall notify the Manager within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Manager within thirty (30) days after becoming aware of the violation. The User is not required to resample if the City monitors at the User's facility at least once per month provided the monitoring includes the pollutant in violation, or if the City performs a compliance monitoring sampling event between the time of the User's initial sampling and when the results of this sampling were received, or if the User requests that the City perform a violation follow-up sample event and analysis to determine current**

**compliance status Monitoring shall comply with the requirements in 40 CFR 403.**

**Section 3-14-710. Monitoring Facilities.**

The Manager may require the User to construct, at the User's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer or internal drainage systems and may also require sampling or metering equipment to be provided, installed, and operated at the User's expense. The monitoring facility should be situated on the User's premises, but the City may, when such a location would be impractical or cause undue hardship on the User, allow the facility to be constructed in the public right-of-way area and located so that it will not be obstructed by landscaping or parked vehicles.

In the event that a monitoring facility is allowed to be constructed in the public right-of-way, the User shall indemnify, hold harmless and defend the City against any claim, cause of action, disability, loss, liability, damage, cost or expense, which in any way arises out of the monitoring facility, or its use.

If the monitoring facility is inside the User's secured premise, 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 monitoring facilities to allow accurate sampling. The monitoring facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the User.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the City that such monitoring facilities are required, unless a time extension is granted by the City.

In the event that the installation of a monitoring facility is not practical, the Manager may approve an alternative point for sampling, monitoring or inspection.

The Manager may require the User to upgrade or modify an existing monitoring facility.

**Section 3-14-715. Inspection and Sampling.**

The City may inspect the facilities of any User to ascertain whether these regulations are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the City or its representative ready access at all reasonable times to all parts of the premises for the purpose of inspection or sampling in the performance of any of their duties. The City shall have the right to set up on the User's property such devices as are necessary to conduct sampling or metering operations. Where a User has security measures in force that would require

proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security personnel. Upon presentation of suitable identification, personnel from the City will be permitted to enter without delay for the purpose of performing their specific responsibilities.

Section 3-14-720. Maintenance of Monitoring Records.

The User shall retain all records for three (3) years resulting from all sampling or monitoring performed for analyses of regulated contaminants. This period of retention shall be extended during the course of any unresolved litigation regarding the User or the centralized waste treatment facility, or when requested by the POTW, the Manager or the Regional Administrator. Records shall be available for inspection and copying.

Section 3-14-725. User Pretreatment.

Whenever deemed necessary by the Manager, the owner of any private premises shall, at his own expense, provide treatment or take such other measures, as shall be required in order to reduce objectionable characteristics, content, or rate of discharge of waters or wastes being deposited in the sanitary sewer system so that the same may be received therein without any damage to the sewer system or any undue interference with its operation.

Section 3-14-730. Test Procedures.

All sampling and analysis required under this ordinance ~~Chapter~~ or the Act or in conjunction with a Pretreatment permit shall be conducted using appropriate methods and procedures as outlined in 40 CFR Part 136 entitled, "GUIDELINES ESTABLISHING TEST PROCEDURES FOR THE ANALYSIS OF POLLUTANTS." **Alternate test procedures may be approved for limited use pursuant to 40 CFR 136.5, and other test procedures may be specified as described at 40 CFR 401.13.** Under certain circumstances, ~~40 CFR Part 136 (b) or (c) or 40 CFR Part 401.13, alternate test procedures may be used provided such procedures have been previously approved by the EPA Regional Administrator of the region in which the discharge will occur and provided the Executive Officer of the CA Regional Water Quality Control Board does not object to the use of such alternate test procedure.~~

ARTICLE 8. ADMINISTRATION.

Section 3-14-800. Wastewater Charges and Fees.

(a) Determination of User Charges and Fees. When User classification charges are established, they shall be based upon a minimum basic charge for each premises, computed on the basis of wastewater from a basic domestic premises with the following characteristics:

Characteristic

Milligrams per Liter

BOD	200 mg/l
COD	280 mg/l
Total Suspended Solids	200 mg/l
Oil and Grease	40 mg/l
Volume	123.5 gal. per day per single-family dwelling unit.
Volume	101 gal. per day per multiple-family dwelling unit.

The charges for all characteristics of Users other than the basic domestic premises shall be based upon the relative difference between the average wastewater constituents and characteristics of that classification as related to those of a domestic premises. The charges and fees established for Industrial Users shall be based upon the measured or estimated constituents and characteristics of that User which may include, but are not limited to, BOD, COD, TSS, oil and grease, chlorine demand and volume.

Section 3-14-805. Severability.

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

Section 3-14-810. Requirement of Payment of User Charges and Fees.

Every User shall pay to the City all charges and fees levied upon their connection to and use of the sanitary sewer in accordance with the City's schedule of charges and fees.

Section 3-14-815. Collection of Fees and Charges.

Fees and charges for residential dwelling units (houses, apartments, condominiums and the like) for the period of July 1 to and including June 30 of each fiscal year shall be filed with the County Auditor of the County of Alameda prior to August 10, who shall enter such fees and charges as an assessment of the tax roll and against the respective premises. Said assessment shall be collected at the same time and in the same manner as ad valorem taxes and other charges as are otherwise collectible by the County and shall be subject to the same penalties and the same procedures and sale in the case of delinquencies as provided for such taxes. All laws applicable to the levying, collection and enforcement of ad valorem taxes shall be applicable to such assessments as provided herein. All other fees and charges not assigned for collection to the County Auditor shall be billed and collected by the Finance Department of the City of San Leandro. All charges and fees are due and payable on receipt of a bill therefor. Such charges and fees shall be paid to the City as directed upon the bill. Upon the expiration of thirty (30) days after billing the charges and fees shall become delinquent if the bill, or that portion thereof which is not in bona fide

dispute, remains unpaid. If the assessment delinquency extends beyond a thirty (30) day period the City may assess a delinquency of the unpaid balance.

Section 3-14-820. Collection of Delinquent Charges and Fees.

During July of each year, the Manager shall submit to the City's governing body a report of delinquent charges and fees. A time, date and place for hearing the report and any objection or protests thereto shall be fixed by the City Clerk. Not less than ten (10) days prior to the date of such hearing, the Manager shall mail written notice thereof to the owner of each of the premises affected thereby, using for this purpose the names and addresses which appear on the last equalized tax assessment roll.

At said hearing the government body shall hear any objections or protests of owners of premises liable to be assessed for delinquent charges or fees. The governing body may make such revisions or corrections to the report as it deems just, after which the report shall be confirmed by resolution. The delinquent charges and fees set forth in the report as confirmed shall constitute special assessments against the respective premises and are a lien on the premises for the amounts of such delinquent charges and fees. Prior to August 10, a certified copy of the confirmed report shall be filed with the County Auditor, who shall enter each assessment on the tax roll against the respective premises. Said assessment shall be collected at the same time and in the same manner as ordinary municipal ad valorem taxes and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for such taxes. All laws applicable to the levy, collection and enforcement of municipal ad valorem property taxes shall be applicable to such assessments. The lien created attaches upon recordation of a certified copy of the confirmed report in the office of the County Recorder and shall continue until the charges and fees are fully paid.

Section 3-14-825. ~~Public Participation Notification.~~

The City will annually provide public ~~notification~~, in a newspaper of general circulation within the jurisdiction of the POTW, of all Industrial Users ~~that~~which, during the previous 12 months, were in significant non-compliance with applicable pretreatment standards and requirements per the provisions of 40 CFR 403.8(f)(2)(viii).

Section 3-14-830. Termination of Service.

After providing adequate notice and a reasonable opportunity to be heard, the City may revoke any permit, and/or halt or prevent any discharge of pollutants to the POTW which reasonably appears to present an imminent endangerment to the health or welfare of persons. The City also maintains the authority to halt or prevent any discharge to the sanitary sewer system which presents or may present an endangerment to the environment or which threatens to interfere with the operation of the POTW.

If service is terminated it shall be unlawful for any person to discharge any material to the City sanitary sewer. This provision is in addition to other statutes, rules, or regulations, authorizing termination of service for delinquency in payment.



# City of San Leandro

Meeting Date: November 3, 2014

## Ordinance

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**File Number:** 14-457 **Agenda Section:** CONSENT CALENDAR

**Agenda Number:**

**TO:** City Council

**FROM:** Chris Zapata  
City Manager

**BY:** Debbie Pollart  
Public Works Director

**FINANCE REVIEW:** David Baum  
Finance Director

**TITLE:** ORDINANCE Amending Title 3 (Health and Safety), Chapter 18 of the San Leandro Municipal Code Relating to Enforcement of Environmental Regulations (establishes authority for environmental inspectors to issue Notices of Violation)

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The City Council of the City of San Leandro does **ORDAIN** as follows:

**SECTION 1. PURPOSE.** The purpose of this amendment is to establish authority for environmental inspectors to issue Notices of Violation.

**SECTION 2. AMENDMENT OF CODE.** Title 3, Chapter 18 of the San Leandro Municipal Code is hereby amended to read as follows, with additions in underline and deletions in strikethrough text:

### **CHAPTER 3-18 ENVIRONMENTAL ENFORCEMENT** **ARTICLE 1. GENERAL**

#### **3-18-100 ENVIRONMENTAL ENFORCEMENT.**

This Chapter shall be known as the "City of San Leandro Environmental Enforcement Ordinance" and may be so cited.

#### **3-18-105 PURPOSE AND INTENT.**

The purpose of this Chapter is to ensure the future health, safety and general welfare of the City of San Leandro ~~citizens~~ and its residents by:

(a) Providing for ~~a~~ uniform and effective enforcement of the City of San Leandro Storm Water Management and Discharge Control Ordinance in Chapter 3-15 and the Uniform Wastewater Discharge Regulations in Chapter 3-14; and

(b) Providing for procedures by which the City of San Leandro will implement the enforcement of environmental laws pursuant to its role as ~~the~~ a Certified Unified Program Agency.



**3-18-110 SCOPE.**

The provisions of this Chapter shall apply to the City of San Leandro Storm Water Management and Discharge Control Ordinance in Chapter 3-15, and; the Uniform Wastewater Discharge Regulations in Chapter 3-14; ~~and the Certified Uniform Program Agency Ordinance at Chapter 3-17;~~ and hazardous materials provisions ~~of~~ in the Fire Code.

**3-18-115 FALSIFYING INFORMATION.**

Any person who knowingly makes any false statements, representation, record, report, plan or other document filed with the City, or who knowingly renders inaccurate any monitoring device or method required under these regulations, shall be punished by a fine of not more than Ten Thousand Dollars (\$10,000.00) or by imprisonment in a County Jail for not more than six (6) months, or by both. The City Attorney, upon order of the City Council, shall petition the court of appropriate jurisdiction to impose, assess, and recover such sums.

**3-18-120 ENFORCEMENT RESPONSIBILITY.**

Primary responsibility for enforcement of these regulations shall be vested in the City Manager or agents of the City as he or she shall designate; ~~f.~~ Field inspectors or other employees of the City are hereby authorized to act as agents of the City for and on behalf of the City Manager with the power to inspect and issue notices and/or citations for violations of these regulations.

**3-18-125 AUTHORITY TO INSPECT.**

Whenever necessary to make an inspection to enforce any provisions of this Title 3 or whenever the City Manager has reasonable cause to believe that there exists in any building or upon any premises any condition which constitutes a violation of the provisions of this Title, the City Manager may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the City Manager by this Title; provided that (1) if such building or premises be occupied, he or she shall first present proper credentials and request entry; and (2) if such building or premises be unoccupied, he or she shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

Any such request for entry shall state that the property owner or occupant has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of an inspection or search warrant by a duly authorized magistrate. In the event the owner or occupant refuses entry after such request has been made, or in the event that the owner or person in charge of the building or premises cannot be located, an inspection/abatement or search warrant authorizing entry shall be obtained prior to City's entry onto the building or premises. The City Manager is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such warrant authorizing entry.

Routine or area inspections shall be based upon such reasonable selection processes as may be deemed necessary to carry out the objectives of this Title 3.

(a) **Authority to Sample and Establish Sampling Devices:** The City shall have the right to establish on any property such devices as are necessary to conduct sampling or ~~metering~~ monitoring operations. During all inspections as provided herein, the City Manager may take any samples deemed necessary to aid in the pursuit of the inquiry or in the recordation of the activities onsite.

(b) **Notification of Spills:** As soon as any person in charge of a facility or responsible

for emergency response for a facility has knowledge of any confirmed or unconfirmed release of materials, pollutants or waste, such person shall take all necessary steps to ensure the discovery and containment and clean-up of such release and shall notify the City of the occurrence by telephoning the City Manager and confirming the notification by correspondence to the same.

(c) **Requirement to Test or Monitor:** The City Manager may request that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to storm water pollution, contamination, illicit discharges, discharge of non-storm water to the storm water system, and/or release, discharge or deposit of hazardous materials, **shall** undertake such monitoring activities and/or analyses and furnish such reports as the City Manager may specify. The burden, including costs, of these activities, analyses, and reports shall bear a reasonable relationship to the need for the monitoring, analyses, and reports and the benefits to be obtained. The recipient of such request shall undertake and provide the monitoring, analyses and/or reports requested.

### **3-18-130 SUBMISSION OF TIME SCHEDULES.**

(a) When the City finds that a discharge of wastewater is taking place, has been taking place or threatens to take place, in violation of prohibition s or limitations prescribed in this Title 3, effluent limitations or pretreatment standards, or the provisions of a Permit, the City may, at its discretion, require the User to submit for approval, with such modifications as the City Manager deems necessary, a detailed time schedule of specific actions which the User shall take in order to prevent or correct a violation of these regulations or of any permit issued pursuant to these regulations, and to take such action in accordance with such schedule.

(b) Nothing provided in this section shall limit or prohibit the City from pursuing any other remedy, legal or equitable, otherwise available to City, or from seeking sanctions in any criminal or civil action related to the violation set forth in subsection (a) of this section.

### **3-18-135 VIOLATIONS DEEMED A PUBLIC NUISANCE.**

In addition to the penalties provided in this Chapter, any condition caused or permitted to exist in violation of this Title 3 is a threat to the public health, safety and welfare, and is declared and deemed a **public** nuisance. Such violation may be abated in the manner provided in Chapter 1-12. Any violation of a discharge standard and/or requirement of these regulations, applicable State or Federal regulations or any order issued by the City as authorized by these regulations, is hereby declared a public nuisance and shall be corrected or abated as directed by the City. Any person creating a public nuisance shall be subject **to** the provisions of this Code or other laws or ordinances governing such nuisance. Such nuisance may be abated, removed or enjoined and damages assessed therefore, in any manner provided by law or this Code.

The cost of such abatement and restoration shall be borne by the owner of the property, and the cost thereof shall be a lien upon and against the property. The lien procedures in Chapter 1-12 of this Code shall be followed for any such lien.

If violation of this Chapter constitutes a seasonal and recurrent nuisance, the City shall so declare. Thereafter, such seasonal and recurrent nuisance shall be abated every year without the necessity of any further hearing.

### **3-18-140 EMERGENCY CORRECTION.**

In the event clean-up, repairs, construction, or other public work is performed on any premises pursuant to any provision of law relating to the emergency performance of public

work and the expenditure of public funds therefore, or pursuant to any other provision of law authorizing public work on private property in order to correct, eliminate or abate a condition upon such premises which threatens to cause, causes, or has caused a violation of any provisions of these regulations, or of any permit issued pursuant to these regulations, or of any other requirement of law, the owner, occupant and/or responsible party is responsible for the occurrence or condition giving rise to such work, the occupant, the owner of the premises and responsible party shall be liable jointly and severally to the City for such public expenditures including overhead costs.

**3-18-145 CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 1094.6.**

The provisions of Section 1094.6 of the California Code of Civil Procedure are applicable to judicial review of City decisions pursuant to this Title 3.

**3-18-150 ISSUANCE OF CEASE AND DESIST ORDER.**

When the City Manager finds that a violation of this Title 3 or the provisions of a permit has taken place or is likely to take place, the City may issue an order to cease and desist such discharge, or practice, or operation likely to cause such violation and direct those persons not complying with such prohibitions, limits, requirements or provisions to:

- (a) Comply forthwith;
- (b) Comply in accordance with a time schedule set forth by the City; or
- (c) Take appropriate remedial or preventative action.

**3-18-155 NOTICE TO CLEAN.**

Whenever the City Manager finds any oil, earth, dirt, grass, weeds, dead trees, tin cans, rubbish, refuse, waste, or any other material of any kind, in or upon the sidewalk abutting or adjoining any parcel of land, or upon any parcel of land or grounds which may result in (1) a release or (2) ~~in~~ pollutants entering the City storm sewer systems or a non-storm discharge to the City storm sewer system, said official may give notice to the property owner and/or to the tenant, if any, to remove such oil, earth, dirt, grass, weeds, dead trees, tin cans, rubbish, refuse, waste or other material, in any manner that he or she may reasonably provide. The recipient of such notice shall undertake the activities as described in the notice.

**3-18-160 DAMAGE TO FACILITIES-ADDITIONAL REMEDY.**

When a discharge causes an obstruction, damage, or any other impairment to City facilities including, but not limited to the City sewerage system, the City may assess a charge against the owner, occupant or responsible party for the work required to clean, repair and/or replace the facility and add such charge to the facilities' charges and fees, including overhead costs.

**3-18-165 APPEALS.**

Any User, permit applicant, permit holder, property owner, occupant, or responsible party affected by any decision, action or determination, including cease and desist orders, made by the City, interpreting or implementing the provisions of Title 3 or in any permit issued herein, may file with the City Manager a written request for reconsideration within ten (10) days of such decision, action, or determination, setting forth in detail the facts supporting the appellant's request for reconsideration. The City Manager shall appoint a hearing officer who shall hear the appeal within sixty (60) days from the date of filing. The hearing officer shall make a ruling on the appeal within thirty (30) days of the close of the hearing. If the ruling

made by the hearing officer is unsatisfactory to the person requesting reconsideration, he may within ten (10) days after notification of the City's action, file a written appeal to the City Council. The written appeal shall be heard by the body within sixty (60) days from the date of filing. The City Council shall make a final ruling on the appeal within thirty (30) days of the close of the hearing. The City Manager's decision, action or determination shall remain in effect during such period of reconsideration. The City Council's determination on the appeal shall be final.

### **3-18-170 CIVIL AND CRIMINAL PENALTIES.**

Any person, without regard to intent or negligence, who violates any provision of Chapter 3-14 of this Code, or of any provisions of any permit issued pursuant to these regulations, or who discharges any material which causes contamination, nuisance, pollution, or who violates any cease and desist order, termination of service, prohibition, effluent limitation, national standard of performance or national pretreatment or toxicity standard or requirement, shall be civilly and/or criminally liable to the City in a sum not to exceed Six Thousand Dollars (\$6,000.00) ~~for each per day in which such per violation occurs (civilly liable to penalties imposed by the City)~~ and in a sum not to be less than One Thousand Dollars (\$1,000.00) ~~for each per day in which such per violation occurs~~. The City may petition the Superior Court to impose, assess and collect such sums pursuant to this Chapter and Section 54740 of the California Government Code.

### **3-18-175 ACTS POTENTIALLY RESULTING IN VIOLATION OF FEDERAL CLEAN WATER ACT AND/OR PORTER-COLOGNE ACT.**

Any person who violates any provision of this Chapter, any provision of any permit issued pursuant to this Chapter, or who discharges waste or wastewater which causes pollution, or who violates any cease and desist order, prohibition, or effluent limitation, may also be in violation of the Federal Clean Water Act and/or Porter-Cologne Act and may be subject to the sanctions of those Acts including civil and criminal penalties. Any enforcement action authorized under this Article shall also include notice to the violator of such potential liability.

### **3-18-180 CIVIL ACTIONS.**

In addition to any other remedies provided for in this Chapter, any violation of this Title may be enforced by civil action brought by the City. In any such action, the City may seek, and the court shall grant, as appropriate, any or all of the following remedies:

- (a) A temporary and/or permanent injunction;
- (b) Assessment of the violator for the costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection;
- (c) Compensatory damages for loss and destruction to water quality, wildlife, fish and aquatic life. Assessments under this subdivision shall be paid to the City to be used exclusively for programs of the Environmental Services ~~Division~~ Section.

### **3-18-185 AUTHORITY TO ISSUE CITATIONS OF ARREST.**

The City Manager may issue a citation for an infraction and notice to appear in the manner prescribed by Chapter 5c of Title 3, Part 2 of the Penal Code (or as the same may hereafter be amended-). It is the intent of the City Council that the immunities prescribed in Section 836.5 of the Penal Code be applicable to public officers or employees acting in the

course and scope of their employment pursuant to Title 3 of the Penal Code.

Police officers, but not the City Manager, shall have and are hereby vested with the authority to arrest or cite any person who violates any section of Title 3 in the manner provided by the California Penal Code for the arrest or release on citation of misdemeanor infractions as prescribed by Chapters 5, 5c, and 5d of Title 3, Part 2 of the Penal Code (or as the same may be hereinafter amended).

### **3-18-190 CONTINUING VIOLATION.**

Unless otherwise provided, a person, firm, corporation, or organization shall be deemed guilty of a separate offense for each and every day during any portion for which a violation of this Title 3 is committed, continued, or permitted by the person, firm, corporation or organization and shall be punishable accordingly as herein provided.

### **3-18-195 CONCEALMENT.**

Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Title 3 shall constitute a violation of such provision.

### **3-18-200 MISDEMEANOR.**

Any person violating any provision of these regulations, or of any permit issued pursuant to said regulations shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by imprisonment in the County Jail for a term not to exceed one year, or by a fine not to exceed One Thousand Dollars (\$1,000.00) or by both such imprisonment and fine. Every day such violation continues shall constitute a separate offense. The ~~attorney for the City~~ City Attorney, upon order of the City Manager, shall petition the Superior Court to impose, assess, and recover such sums as may be applicable. Any such violation constituting a misdemeanor may, in the discretion of the City, be charged and prosecuted as an infraction.

Upon conviction of an infraction, a person shall be subject to payment of a fine, not to exceed the limits set forth in California Government Code Section 36900. After a third infraction conviction for a violation of the same provision within a twelve (12) month period, or subsequent violations of that same provision within a twelve (12) month period may be charged as misdemeanors.

### **3-18-205 ADMINISTRATIVE ORDER PROCESS.**

~~The Administrator~~ Any City enforcement officer may issue a complaint to any person on whom civil liability may be imposed pursuant to Chapter 3-17 of this Title. The complaint shall allege the acts or failures to act that constitute a basis for liability and the amount of the proposed civil liability. The complaint shall be served by personal service or certified mail and shall inform the party so served that a hearing shall be held at a specific time and place within sixty (60) days after the party has been served. Failure of any person to receive notice shall not affect the validity of any proceedings hereunder.

### **3-18-210 ADMINISTRATIVE ORDER HEARING PROCESS.**

The administrative order hearing shall be held before the City Manager or his/her designee. All hearings shall be ~~tape~~ recorded. Hearings need not be conducted according to the technical rules of evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this State. Any relevant evidence shall be admitted if it is the type of evidence on

which reasonable persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this State. Oral evidence shall be taken only on oath or affirmation. Irrelevant and unduly repetitious evidence shall be excluded. At the time stated in the complaint, the City Manager shall hear and consider all relevant evidence, objections or protests, and shall receive testimony under oath relative to the acts or failures to act that constitute a basis for liability. If the City Manager finds that there is sufficient cause to find liability, the City Manager shall prepare findings and an order, which shall specify the nature of the violation and the amount of the proposed civil liability.

### **3-18-215 ADMINISTRATIVE ORDER APPEAL PROCESS.**

The owner, occupant or responsible party (Respondent) subject to an Administrative Order proceeding may appeal the City Manager's findings and order to the City Council by filing an appeal with the City Clerk within ten (10) calendar days of the date of service of the City Manager's decision. The appeal shall contain:

- (a) A specific identification of the alleged basis for liability;
- (b) The names and addresses of all appellants;
- (c) A statement of appellant's legal interest in the proceedings;
- (d) A statement in ordinary and concise language of the specific order or action protested and the grounds for appeal, together with all material facts in support thereof;
- (e) The date and signatures of all appellants;
- (f) The verification of at least one appellant as to the truth of the matters stated in the appeal.

As soon as practicable after receiving the appeal, the City Clerk shall set a date for the City Council to hear the appeal which date shall not be less than ten (10) calendar days nor more than sixty (60) calendar days from the date the appeal was filed. The City Clerk shall give each appellant written notice of the time and place of the hearing at least five (5) calendar days prior to the date of the hearing, either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at the address shown on the appeal. Continuances of the hearing may be granted by the City Council on request of the Respondent for good cause shown, or on the City Council's own motion.

Upon the conclusion of the hearing, the City Council shall determine whether any civil liability exists and the amount of the liability. If the City Council so finds, the City Council shall adopt a resolution setting forth its findings and ordering the payment of the civil penalty. The decision and order of the City Council shall be final.

### **3-18-220 WAIVER OF HEARING ON ADMINISTRATIVE ORDER.**

The responding party in an administrative order proceeding may waive the right to a hearing. If the party waives the right to a hearing, the ~~administering agency~~ City shall issue an order setting liability in the amount proposed in the complaint unless the ~~administering agency~~ City and the party have entered into a settlement agreement, in which case the ~~administering agency~~ City shall issue an order setting liability in the amount specified in the settlement agreement. Where the party has waived the right to a hearing or where the ~~administering agency~~ City and the party have entered into a settlement agreement, the order shall not be subject to review by any court or agency.

**3-18-225 REMEDIES CUMULATIVE.**

The remedies provided for in this Chapter shall be cumulative and not exclusive, and shall be in addition to any and all other remedies available to the City. The violations and penalties as set forth in Chapters 6.7 and 6.95, Division 20 of the California Health and Safety Code, are hereby specifically adopted and shall be cumulative to the remedies set forth herein.

**SECTION 3. SEVERABILITY.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of San Leandro hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.

**SECTION 4. EFFECTIVE DATE AND PUBLICATION.** This ordinance shall take effect thirty (30) days after adoption. The City Clerk is directed to publish the title once and post a complete copy thereof on the City Council Chamber bulletin board for five (5) days prior to adoption.