

ORDINANCE NO. 2039

**AN ORDINANCE OF THE CITY OF SANTA CLARA,
CALIFORNIA, AMENDING CHAPTER 13.10 “SEWERS” OF
TITLE 13 “PUBLIC SERVICES” OF “THE CODE OF THE
CITY OF SANTA CLARA, CALIFORNIA” REGARDING
PROGRAMS AND REGULATIONS FOR WASTEWATER
PRETREATMENT**

BE IT ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

WHEREAS, The City of Santa Clara is a co-owner of the San José-Santa Clara Regional Wastewater Facility (RWF) with the City of San José, who acts as the administrator of the facility;

WHEREAS, as the RWF administrator, San José ensures compliance with discharge requirements under the federal National Pollution Discharge Elimination System (NPDES) permits. Included in those requirements are water quality standards for the discharge into water bodies that were originally established by the 1972 Federal Clean Water Act;

WHEREAS, discharging facilities such as the RWF are required to establish pretreatment programs that ensure that treated wastewater is free of regulated pollutants in order to protect public health and the environment, including the health of San Francisco Bay; and,

WHEREAS, pretreatment programs and regulations applicable to users of the City of Santa Clara’s sewer collection system are codified in Santa Clara City Code Chapter 13.10 and the regulatory agencies responsible for administering the RWF’s NPDES permit have recommended various changes to the pretreatment regulations.

NOW THEREFORE, BE IT FURTHER ORDAINED BY THE CITY OF SANTA CLARA AS FOLLOWS:

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SECTION 1: That subsection (a) of Section 13.10.020 of Chapter 13.10 (entitled “Sewers”) of Title 13 (entitled “Public Services”) of the Code of the City of Santa Clara, California is amended to read as follows:

“(a) “A” definitions:

(1) “Amalgam separator” means a device that: employs filtration, settlement, centrifugation, or ion exchange to remove dental amalgam and its metal constituents from a dental office vacuum system before it discharges to the sanitary sewer; has been certified under the International Organization for Standardization’s standard for amalgam separators as capable of removing a minimum of ninety-five percent (95%) of dental amalgam at flow rates comparable to the flow rate of the actual vacuum suction system in operation; and does not have any automatic flow bypass.

(2) “Ammonia” means the form of nitrogen that is chemically definable as NH₃.

(3) “Audit protocols” means the procedures to be followed in performing flow and pollutant audit studies.

(4) “Authorized or Duly Authorized Representative of the User” means:

(A) For a corporation:

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

(ii) The manager of one or more manufacturing, production, or operating facilities if the following criteria are met:

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a. The manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations;

b. The manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and

c. The manager has the assigned or delegated authority to sign documents in accordance with corporate procedures.

(B) For a partnership or sole proprietorship: a general partner or proprietor, respectively.

(C) For a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(D) The individuals described in paragraphs A through C, above, may designate a Duly Authorized Representative in writing, specifying the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and submitting the authorization to the Director.

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(5) "Average concentration" means the concentration of a pollutant in an industrial user's discharge that is calculated by adding the concentrations of the particular pollutant in all composite samples taken during a given time period, including, but not limited to, self-monitoring samples, and dividing the total by the number of samples taken."

SECTION 2: That subsection (b) of Section 13.10.020 of Chapter 13.10 (entitled "Sewers") of Title 13 (entitled "Public Services") of the Code of the City of Santa Clara, California is amended to read as follows:

"(b) "B" definitions:

(1) "Baseline Monitoring Report" means a report which shall include all requirements of federal regulation, including but not limited to 40 CFR 403.12(b), and:

(A) For New Sources and sources that become Industrial Users subsequent to the promulgation of an applicable categorical standard, submitted at least ninety (90) days prior to commencement of discharge and contain identifying information, environmental permits in place, a description of operations, flow measurements, measurements of pollutants, and the pretreatment a New Source intends to use to meet the applicable standards, including estimates of measurements;

(B) For existing Industrial Users, submitted within one hundred eighty (180) days after the effective date of a categorical Pretreatment Standard, or after the final administrative decision, and shall contain, at a minimum, identifying information, environmental permits in place, a description of operations, flow measurements, a measurement of pollutants, proper certification, and a compliance schedule as necessary."

(2) “Batch discharge” means the discharge of wastewater resulting from an intermittent treatment process in which an identified amount of process wastewater is collected, treated to meet discharge standards, and released to the sanitary sewer system.

(3) “Best management practices” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices, such as, standard operating procedures, general good housekeeping, or pollution prevention practices to prevent or reduce the introduction of pollutants to either the sanitary sewer or storm drain system that have been determined by the Director to be cost-effective for particular industry groups, business types, or specific industrial processes. Best Management Practices may also include approved alternative means (e.g., management plans) of complying with federal, state or local regulations.

(4) “Biochemical oxygen demand” means the quantity of oxygen expressed in parts per million (ppm) by weight, utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five days at a temperature of twenty degrees centigrade (20° C).”

SECTION 3: That subsection (c) of Section 13.10.020 of Chapter 13.10 (entitled “Sewers”) of Title 13 (entitled “Public Services”) of the Code of the City of Santa Clara, California is amended to read as follows:

“(c) “C” definitions:

(1) “Categorical industrial user” or “CIU” means a source performing any categorical process subject to Federal pretreatment standards, as described in 40 CFR Sections 405 through 471, as amended from time to time, that has any connection to the sanitary sewer system.

(2) “Categorical pretreatment standard” or “categorical standard” means any regulation containing pollutant discharge limits promulgated by EPA that apply to specific categories of users and which appear in 40 CFR Sections 405 through 471, as amended from time to time.

(3) “Clean Water Act” is the 1972 amendment to the Federal Water Pollution Control Act, 33 U.S.C. Section 1251 et seq. The Act is the primary legislation concerning water pollution and its regulation. The Act establishes a permit system that must be used by point sources of pollution such as industrial facilities, government facilities, and agricultural operations. These point sources are not allowed to discharge or dispose of the pollutants they produce in surface water without a permit from the National Pollutant Discharge Elimination System (NPDES).

(4) “Code of Federal Regulations” (or “CFR”) refers to the Code of Federal Regulations as published by the Office of the Federal Register National Archives and Records Administration. Whenever a reference is made to any portion of the CFR, or to any other Federal regulation, such reference shall apply to all amendments and additions to such portion of said regulations now or hereinafter enacted.

(5) “Composite sample” means a flow-proportional or time-proportional sample, which accurately represents the average pollutant concentration discharged during a continuous time period. A composite sample may be obtained manually or automatically, and it may be taken discretely or continuously. For manual composite sampling, at least six individual samples from each sample point shall be combined and mixed to obtain one composite sample; flow-proportion may be obtained either by varying the time interval between each discrete sample or the volume of each discrete sample.

(6) “Continuous discharge” means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

(7) “Critical user” means a discharger whose wastewater contains priority pollutants, or who discharges any waste which has the potential to cause interference in concentration above those allowed in this chapter and/or who discharges in excess of one hundred thousand (100,000) gallons per day.”

SECTION 4: That subsection (d) of Section 13.10.020 of Chapter 13.10 (entitled “Sewers”) of Title 13 (entitled “Public Services”) of the Code of the City of Santa Clara, California is amended to read as follows:

“(d) “D” definitions:

(1) “Dental amalgam” means an alloy of mercury with another metal used by dentists to fill cavities in teeth.

(2) “Diluting waters” means noncontact cooling water, boiler blowdown, domestic sewage, groundwater, stormwater, surface drainage, reverse osmosis reject, water softener regeneration, potable waters, or any other waters that are not part of an industrial process and that do not contain priority pollutants but are combined with industrial wastewater prior to the monitoring point for industrial wastewater discharge. “Diluting waters” also includes excess water used in production processes, such as rinse tanks or rinse water running when in production in excess of operational or quality requirements.

(3) “Director,” for purposes of this chapter, shall mean the Director of Water and Sewer Utilities or his/her designee.

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(4) “Discharger” means any person discharging wastewater into the sanitary sewer system.

(5) “Domestic wastewater” means wastewater from private residences and other premises resulting from the use of water for personal washing, sanitary purposes and/or the elimination of human wastes and related matter.”

SECTION 5: That subsection (e) of Section 13.10.020 of Chapter 13.10 (entitled “Sewers”) of Title 13 (entitled “Public Services”) of the Code of the City of Santa Clara, California is amended to read as follows:

“(e) “E” definitions:

(1) “Enforcement Response Plan” means the City’s plan used to guide enforcement actions taken in response to violations of this code.

(2) “Existing source” means any source of discharge that is not a new source.”

SECTION 6: That subsection (a) of Section 13.10.020 of Chapter 13.10 (entitled “Sewers”) of Title 13 (entitled “Public Services”) of the Code of the City of Santa Clara, California is amended to read as follows:

“(i) “I” definitions:

(1) “Indirect discharge or discharge” means the introduction of pollutants or any discharge of wastewater to the sanitary sewer system.

(2) “Industrial user” means any nonresidential user that discharges industrial wastes to the sanitary sewer system.

(3) “Industrial wastes” means the wastes from producing, manufacturing, and processing operations of every kind and nature.

(4) Interference.

(A) "Interference" means a discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the processes or operation of the sanitary sewer system, including the plant, or causes or significantly contributes to a violation of any requirement of the National Pollutant Discharge Elimination System (NPDES) permit, which is a permit issued to the City pursuant to Section 402 of the Clean Water Act.

(B) "Interference" also includes prevention of biosolids use or disposal by the plant in accordance with published regulations providing guidelines under Section 405 of the Federal Clean Water Act (33 U.S.C. Sections 1251 through 1387) or in regulations developed pursuant to the Solid Waste Disposal Act (SWDA) (42 U.S.C. Section 6901 et seq.), the Toxic Substances Control Act (15 U.S.C. Sections 2601 through 2654), or more stringent State regulations (including those contained in any State biosolids management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the plant."

SECTION 7: That subsection (a) of Section 13.10.020 of Chapter 13.10 (entitled "Sewers") of Title 13 (entitled "Public Services") of the Code of the City of Santa Clara, California is amended to read as follows:

"(n) "N" definitions:

(1) "New source" means:

(A) Any building, structure, facility or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Clean Water Act that will be applicable to such source if such standards are thereafter promulgated in accordance with that section; provided, that:

(i) The building, structure, facility, or installation is constructed at a site at which no other source is located; or The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

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

(B) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (n)(1)(A)(ii) or (iii) of this section but otherwise alters, replaces, or adds to existing processor production equipment.

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

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

a. Any placement, assembly or installation of facilities or equipment; or

b. Significant site preparation work, including clearing, excavating, or removal of existing buildings, structures, or facilities, which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

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

(2) "Ninety (90) Day Compliance Report" means a report which shall include all requirements of federal regulation, including but not limited to 40 CFR 403.12(d), and:

(A) For a New Source, submitted within ninety (90) days following the commencement of the introduction of wastewater into the POTW, and contain, at a minimum, flow measurements, a measurement of pollutants, and certification of compliance with pretreatment standards; and

(B) For Industrial Users, submitted within ninety (90) days following the final date for compliance with an applicable Pretreatment Standard and contain, at a minimum, flow measurements, a measurement of pollutants, certification of compliance with pretreatment standards and the actual production during sampling period; and for Industrial Users subject to equivalent mass or concentration limits, a reasonable measure of the long-term production rate."

SECTION 8: That subsection (p) of Section 13.10.020 of Chapter 13.10 (entitled "Sewers") of Title 13 (entitled "Public Services") of the Code of the City of Santa Clara, California is amended to read as follows:

"(p) "P" definitions:

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(1) "Pass-through" means a discharge which exits the plant into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the plant's NPDES permit, including an increase in the magnitude or duration of a violation.

(2) "pH" means the logarithm of the reciprocal of the concentration of hydrogen ions in moles per liter of solution.

(3) "Plant" means the San Jose/Santa Clara Regional Wastewater Facility, which is also known as the San Jose/Santa Clara Water Pollution Control Plant.

(4) "Pollutant not present" means a pollutant regulated by a categorical pretreatment standard that is not used or stored in a categorical industrial user's facility, is not added to or created by any industrial or pretreatment process at the facility, and is not present above the background levels of the water supply.

(5) "Pretreatment standard" means prohibited discharge standards, including those in federal regulations such as 40 CFR, 403.5, categorical pretreatment standards, and local limits.

(6) "Pretreatment requirements" means any substantive or procedural requirement related to pretreatment imposed on an industrial user other than a pretreatment standard.

(7) "Priority pollutants" means all pollutants as defined by the "General Pretreatment Regulations" of the Environmental Protection Agency, found at Title 40, Chapter 1, Subchapter W, Parts 401 and 403 of the Code of Federal Regulations.

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(8) "Process flow" means the daily, twenty-four (24)-hour flow of wastewater from any kind or nature of production, manufacturing, or processing operation, including industrial and commercial operations where water is used for the removal of any type of waste other than sanitary sewage. Process flow does not include diluting waters."

SECTION 9: That subsection (s) of Section 13.10.020 of Chapter 13.10 (entitled "Sewers") of Title 13 (entitled "Public Services") of the Code of the City of Santa Clara, California is amended to read as follows:

"(s) "S" definitions:

(1) "Sanitary sewage" means water-carried wastes from residences, business buildings, institutions, and industrial establishments, excluding ground, surface, and stormwaters, subsurface drainage, and also excluding industrial waste.

(2) "Sanitary sewer overflow" is any overflow, spill, release, discharge or diversion of untreated or partially treated wastewater from a sanitary sewer system, including overflows or releases that reach waters of the United States, overflows or releases that do not reach waters of the United States, and backups into buildings and/or private property caused by conditions within the publicly owned portion of the sewer system.

(3) "Sanitary sewer system" means all publicly owned treatment works (POTW), including the Plant, sewers, treatment plants, and other facilities owned or operated by the City for carrying, collecting, pumping, treating, storing, recycling, and disposing of sanitary sewage and industrial wastes.

(4) "Sewer" means a pipe or conduit for carrying sewage.

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(5) “Sewer lateral” (same as “sewer service lateral”) means the sewer connection piping used to convey sewage from a building or facility on a parcel (private or public property) to the City- owned sewer main. Each sewer lateral is owned by the entity that owns the property or facility from which that sewer lateral serves to convey sewage.

(6) “Significant change” means any change in an industrial user’s operation that results in any of the following:

(A) An increase or decrease in twelve-month average process flow of twenty-five percent (25%) over the standard discharger’s average process flow for the discharger’s most immediate preceding twelve (12) months.

(B) An increase or decrease in twelve-month average process flow that results in a change from low flow discharger to standard discharger or from standard discharger to low flow discharger.

(C) An increase or decrease in twelve-month average process flow that results in a change from nonsignificant industrial user to significant industrial user or from significant industrial user to nonsignificant industrial user.

(D) An increase or decrease in twelve-month production rate of twenty-five percent (25%) for any industrial user subject to production-based limits over the industrial user’s production rate for the most immediate preceding twelve (12) months.

(E) Adding or deleting processes, process discharges or sample points.

(F) Waiver of monitoring requirements for any pollutant not present.

(7) “Significant industrial user” means:

(A) An industrial user that has processes subject to categorical pretreatment standards except as provided under subsection (s)(7)(C) of this section; or

(B) An industrial user that:

(i) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the sanitary system (excluding sanitary, noncontact cooling and boiler blowdown wastewater); or

(ii) Contributes a process waste-stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the plant; or

(iii) Is designated as such by the Director on the basis that it has a reasonable potential for adversely affecting the plant's operation or for violating any pretreatment standard or requirement.

(C) A significant industrial user includes an industrial user that has processes subject to categorical pretreatment standards if the industrial user:

(i) Does not discharge more than one hundred (100) gpd of total categorical process wastewater;

(ii) Has complied with all applicable categorical pretreatment standards;

(iii) Never discharges any untreated concentrated wastewater; and

(iv) Submits annually a certificate statement pursuant to 40 CFR Section 403.12(g).

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(8) "Significant noncompliance" means a violation or violations by an industrial user meeting one or more of the following criteria:

(A) Chronic violations of wastewater discharge limits defined here as those in which sixty-six percent (66%) or more of all the measurements taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR Section 403.3(l);

(B) Technical review criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR Section 403.3(l), multiplied by the applicable TRC (TRC equals 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);

(C) Any other violation of a pretreatment standard or requirement as defined by 40 CFR Section 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Director determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of the Director, personnel or the general public);

(D) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the plant's exercise of its emergency authority to halt or prevent such a discharge;

(E) Failure to meet, within ninety (90) days after the scheduled due date, a compliance schedule milestone contained in a discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(F) Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports, ninety (90)-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(G) Failure to accurately report noncompliance; and

(H) Any other violation or group of violations, which may include a violation of reasonable control measures, which the Director determines will adversely affect the operation or implementation of the pretreatment program.

(9) “Slug control plan” means the document prepared pursuant to 40 CFR Section 403.8(f)(1)(iii) (B)(6) by a significant industrial user that describes the procedural and operational controls in place to prevent a slug load or slug discharge.

(10) “Slug load” or “slug discharge” means any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or noncustomary batch discharge, which has a reasonable potential to cause interference or pass-through or in any other way cause a violation of the provisions of this chapter or applicable permit conditions.

(11) “Source” means any building, structure, facility or installation from which there is or may be a potential as determined by the Director discharge pollutants above the local limits included in this chapter or State or Federal limits or wastewater of such volume or strength that it may cause interference, pass-through or operational problems in the sanitary sewer system or at the San Jose/Santa Clara Water Pollution Control Plant.

(12) “Standard discharger” means any industrial discharger who is not a low flow discharger.”

SECTION 10: Section 13.10.210 of Chapter 13.10 (entitled “Sewers”) of Title 13 (entitled “Public Services”) of the Code of the City of Santa Clara, California is amended to read as follows:

“13.10.210 Pretreatment by owner or operator.

Each owner or operator shall, at the owner’s or operator’s own expense, provide such treatment or take such other measures, as the Director may require to prevent accidental discharge, reduce objectionable characteristics, contents, or rate of discharge of waters or waste being deposited in the sanitary sewer system, to prevent damage to or interference with the sanitary sewer system.”

SECTION 11: Section 13.10.230 of Chapter 13.10 (entitled “Sewers”) of Title 13 (entitled “Public Services”) of the Code of the City of Santa Clara, California is amended to read as follows:

“13.10.230 Storm and other waters.

(a) No person shall discharge, cause, allow, or permit any stormwater, surface water, ground water, subsurface drainage or roof runoff to be discharged into the sanitary sewer system or any part thereof without a wastewater discharge permit or prior authorization from the Director.

(b) A wastewater discharge permit for the discharge of ground water, subsurface drainage, surface water, roof water or stormwater shall only be issued if there is no reasonable alternative method for disposal of such water.

(c) If permitted, discharge of ground water or subsurface drainage, surface water, roof water or stormwater shall be subject to all applicable requirements of this chapter, including, but not limited to, the payment of applicable permit fees and such terms and conditions as the Director may impose in the wastewater discharge permit.”

SECTION 12: Section 13.10.270 of Chapter 13.10 (entitled “Sewers”) of Title 13 (entitled “Public Services”) of the Code of the City of Santa Clara, California is amended to read as follows:

“13.10.270 Grease, oils, fats.

(a) No person shall discharge, cause, allow, or permit to be discharged into the sanitary sewer system any liquid or other waste containing grease in excess of one hundred fifty (150) parts per million by weight.

(b) No person shall discharge, cause, allow, or permit any grease discharge from a food service establishment into the sanitary sewer system, unless such discharge has first been processed through an approved grease control device.

(c) No person shall discharge, cause, allow, or permit to be discharged any yellow grease, or any waste or material mixed with yellow grease, into the sanitary sewer system from a food service establishment. No yellow grease from a food service establishment shall be mixed with grease trap or grease interceptor waste.

(d) Any Industrial user that violates the grease limit shall resample and submit reports to the City for all pollutants in violation of any applicable permit limits or any other pollutants as required by the Director within thirty days of becoming aware of the violations.”

SECTION 13: Section 13.10.290 of Chapter 13.10 (entitled “Sewers”) of Title 13 (entitled “Public Services”) of the Code of the City of Santa Clara, California is amended to read as follows:

“13.10.290 Corrosive matter.

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(a) No person shall discharge, cause, allow, or permit to be discharged into the sanitary sewer system, or any part thereof, any liquid, solid, vapor, gas, or thing having a pH lower than 6.0 or equal to or greater than 12.5, or having any other corrosive property capable of causing damage or hazard to the sanitary sewer system, or any part thereof, or to any personnel operating, maintaining, repairing, or constructing said sanitary sewer system, or any part thereof, or working in or about the sanitary sewer system.

(b) Any Industrial user that violates any of the corrosive matter limits shall resample and submit sample reports for all pollutants in violation of any applicable permit limits or any other pollutants as required by the Director within thirty days of becoming aware of the violation.”

SECTION 14: Section 13.10.310 of Chapter 13.10 (entitled “Sewers”) of Title 13 (entitled “Public Services”) of the Code of the City of Santa Clara, California is amended to read as follows:

“13.10.310 Interfering substances.

(a) No person shall discharge, cause, allow, or permit to be discharged into the sanitary sewer system, or any part thereof, any industrial waste containing any of the following toxic substances exceeding the concentrations set forth in Table A.

(b) No person shall discharge, cause, allow, or permit to be discharged into the sanitary sewer system, or any part thereof, any toxic or poisonous substances or any other pollutant, including biochemical oxygen demand, in sufficient quantity to:

- (1) Injure or cause an interference with the sewage treatment process or pass through the Plant;
- (2) Constitute a hazard to humans or animals;

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(3) Create a hazard for humans or aquatic life in any waters receiving effluent from the sanitary sewer system; or

(4) Create a hazard in the use or disposal of sewage sludge.

(c) All samples, including grab and composite, may be used to evaluate compliance with the limits in Table A.

(d) Any industrial user that violates any of the interfering substances limits must resample and submit sample reports for all pollutants in violation of any applicable limits or any other pollutants as required by the Director within thirty (30) days of becoming aware of the violation.

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TABLE A
INTERFERING SUBSTANCES

Toxic Substance	Standard Discharger	Low Flow Discharger
	Maximum	Maximum
Antimony	5.0 mg/l	5.0 mg/l
Arsenic	1.0 mg/l	1.0 mg/l
Beryllium	0.75 mg/l	0.75 mg/l
Cadmium	0.7 mg/l	0.7 mg/l
Chromium, Total	1.0 mg/l	1.0 mg/l
Copper	2.3 mg/l	2.7 mg/l
Cyanide, Total	0.5 mg/l	0.5 mg/l
Lead	0.4 mg/l	0.4 mg/l
Mercury	0.010 mg/l	0.010 mg/l
Nickel	0.5 mg/l	2.6 mg/l
Phenols, Total	30.0 mg/l	30.0 mg/l
Selenium	1.0 mg/l	1.0 mg/l
Silver	0.7 mg/l	0.7 mg/l
Zinc	2.6 mg/l	2.6 mg/l

SECTION 15: Section 13.10.390 of Chapter 13.10 (entitled “Sewers”) of Title 13 (entitled “Public Services”) of the Code of the City of Santa Clara, California is amended to read as follows:

“13.10.390 Installation and maintenance of amalgam separators.

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(a) Except as provided in subsections (b) and (c) of this section, no person shall discharge, cause, allow or permit any discharge to the sanitary sewer system from a dental vacuum system, unless such discharge has first been processed through an amalgam separator.

(b) For each dental vacuum system installed prior to July 1, 2009, an amalgam separator shall be installed on or before December 31, 2010. No dental vacuum system shall be installed on or after January 31, 2009, without an amalgam separator. Proof of certification and installation records shall be submitted to the Director within ninety (90) days of installation.

(c) A dental vacuum system may be operated without an amalgam separator; provided, that the system is not used in connection with the removal or placement of fillings that contain dental amalgam, except in limited emergency or unplanned, unanticipated circumstances, and the system is used exclusively by the following types of dental practices: (1) oral pathology (2) oral and maxillofacial radiology (3) oral and maxillofacial surgery (4) orthodontics (5) periodontics or (6) prosthodontics.

(d) Amalgam separators shall be maintained in accordance with manufacturer recommendations. Installation, certification, and maintenance records shall be maintained for a minimum of five years and available for immediate inspection upon request therefor by the Director or designee during normal business hours.”

SECTION 16: Section 13.10.420 of Chapter 13.10 (entitled “Sewers”) of Title 13 (entitled “Public Services”) of the Code of the City of Santa Clara, California is amended to read as follows:

“13.10.420 Mandatory wastewater discharge permits.

No critical user, zero discharge categorical user, or significant industrial user shall connect, discharge, cause, allow, or permit any discharge into the sanitary sewer system except in accordance with a discharge permit issued by the Director.”

SECTION 17: Section 13.10.440 of Chapter 13.10 (entitled “Sewers”) of Title 13 (entitled “Public Services”) of the Code of the City of Santa Clara, California is amended to read as follows:

“13.10.440 Permit application.

(a) All persons requiring a discharge permit shall file a complete application, in the form prescribed by the Director, and accompanied by the applicable fees, as established by resolution of the City Council.

(b) For new construction, permit applications shall be filed with the Director at the time that an application for a building permit for a new building or structure is made.

(c) All persons discharging wastewater into the sanitary sewer system for which a wastewater discharge permit has been issued must apply for a new permit prior to making a significant change in the operations affecting their discharge.

(d) Waiver of pollutants not present.

(1) A categorical industrial user seeking to request a waiver of monitoring requirements for pollutants not present must submit the following with its permit application:

(A) Data from at least one sampling of the facility’s process wastewater prior to any treatment that is representative of all wastewater from all processes;

(B) Signature in compliance with SCCC 13.10.460;

(C) Certification statement as specified under 40 CFR Section 403.6(a)(2)(ii); and

(D) Other technical factors as may be required by the Director to demonstrate that the pollutant is not present in the industrial user's discharge.

(2) If approved, the waiver shall be included as part of the categorical industrial user's discharge permit. The categorical industrial user must certify in each self monitoring report with the statement set forth in 40 CFR Section 403.12(e)(2)(v) that there has been no increase in the waste stream due to the activities of the user of the pollutant that was waived.

(3) The waiver shall only be valid for the term of the permit, and anew request for waiver must be submitted for each new permit."

SECTION 18: Section 13.10.460 of Chapter 13.10 (entitled "Sewers") of Title 13 (entitled "Public Services") of the Code of the City of Santa Clara, California is amended to read as follows:

"13.10.460 Signature requirements.

(a) Permit applications, discharge reports, and any other reports required by the Director to be signed shall be signed by an Authorized or Duly Authorized Representative of the User filing the application.

(b) Reports subject to the requirements of Title 40 of the Code of Federal Regulations shall include the following certification statement as contained in the Title 40 of the Code of Federal Regulations:

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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.”

SECTION 19: Section 13.10.470 of Chapter 13.10 (entitled “Sewers”) of Title 13 (entitled “Public Services”) of the Code of the City of Santa Clara, California is amended to read as follows: 13.10.470 Additional information.

(a) If the Director is not satisfied that the permit application has sufficient information to determine whether the permit should be issued, the Director may refuse to issue the permit or request that the applicant submit further information.

(b) The applicant shall have fourteen (14) calendar days, or such longer period of time as allowed by the Director, after reviewing a request for information, to complete the application.

(c) If the returned application is not resubmitted within the specified time period, then a new application for a discharge permit must be submitted along with the application fees and any delinquent fees for a new permit.”

SECTION 20: Section 13.10.480 of Chapter 13.10 (entitled “Sewers”) of Title 13 (entitled “Public Services”) of the Code of the City of Santa Clara, California is amended to read as follows:

“13.10.480 No transfer of permit.

(a) Discharge permits are issued to a specific user for a specific operation. A discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without prior approval of the Director.

(b) Wastewater discharge permit may be transferred to a new owner or operator only if the permittee provides advance written notice to the Director and the Director approves the transfer of a wastewater discharge permit.

(1) The notice to the Director must include a certification by the new owner or operator which:

a. States the new owner and/or operator has no immediate intent to change the facility's operations and processes;

b. Identifies the specific date on which the transfer is to occur; and

c. Acknowledges full responsibility for complying with the existing individual wastewater discharge permit.

(2) Failure to provide advanced notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

(c) Upon an approved transfer, the existing owner or operator shall provide a copy of the wastewater discharge permit to the new owner or operator. The new owner or operator shall submit a wastewater discharge permit application and appropriate permit application fee within thirty (30) days of the date of the approved transfer.

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(d) Nothing in this Section shall be construed to prevent the application of terms and conditions of this Chapter, including enforcement penalties, from applying to a succeeding owner or operator, successor in interest, or other assigns of an existing contract or permit holder.”

SECTION 21: Section 13.10.500 of Chapter 13.10 (entitled “Sewers”) of Title 13 (entitled “Public Services”) of the Code of the City of Santa Clara, California is amended to read as follows:

“13.10.500 Permit conditions.

(a) Discharge permits shall be expressly subject to all provisions of this chapter and all other regulations, user charges, discharge limitations, and fees established by the City and all applicable local, State, and Federal law and regulations.

(b) The permit may include such terms and conditions as the Director may deem necessary to implement this chapter, or any other applicable local, State, or Federal law and regulations, including, but not limited to:

(1) Limits on the average and maximum wastewater volume, constituents and characteristics;

(2) Requirements for installation and maintenance of flow monitoring, inspection, and sampling facilities;

(3) Specifications and pretreatment requirements for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests, and reporting schedule;

(4) Compliance schedules;

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(5) Requirements for submission of technical reports or discharge reports;

(6) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the City and affording the City access thereto;

(7) Requirements for notification to the City of any new introduction of wastewater constituents or any significant change in the volume or character of the wastewater constituents being introduced into the wastewater stream;

(8) Requirements and plans for protection against accidental discharges, including, but not limited to, berming of chemicals and waste materials. The review and approval of such plans and operating procedures shall not relieve the user of the responsibility of modifying the facility as necessary to provide the protection necessary to meet the requirements of this Code or other State or Federal regulations;

(9) Requirements for notification of accidental discharges;

(10) Requirements for submission of a slug control plan or specific elements thereof.

(c) No person shall fail to comply with the terms and conditions of a discharge permit, or fail to comply with any other mandatory provision of this chapter, or other regulations, or discharge limitations established by the city, or local, state and federal laws and regulations. Each violation of the permit condition or other rule, regulation, or law, shall be a separate violation under this code.”

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SECTION 22: That a new Section 13.10.525 is added to Chapter 13.10 (entitled “Sewers”) of Title 13 (entitled “Public Services”) of the Code of the City of Santa Clara, California to read as follows:

“13.10.525 Best management practices.

(a) The Director may develop best management practices (BMPs), by ordinance or in individual wastewater discharge permits, to implement local limits, federal regulations, and the requirements under this Chapter.

(b) All industrial users shall follow BMPs established by ordinance, individual wastewater discharge permit, or implement BMPs in their operations to minimize the discharge of pollutants to the sanitary sewer system and ensure appropriate monitoring, treatment, and other measures are being taken to prevent violations.

(c) When an industrial user develops BMPs in response to an enforcement action, the user shall continue to implement those BMPs and any associated record keeping unless approved to discontinue.

(d) Industrial users subject to BMPs as a means of complying with the standards of this Title shall maintain documentation to demonstrate compliance with the applicable BMP standards.

(e) Periodic reports on continued compliance for BMP regulated dischargers shall require the discharger to certify that the BMPs have been implemented during the reporting period.”

SECTION 23: Section 13.10.570 of Chapter 13.10 (entitled “Sewers”) of Title 13 (entitled “Public Services”) of the Code of the City of Santa Clara, California is amended to read as follows:

“13.10.570 Power to inspect.

(a) The Director and other duly authorized employees and agents of the City bearing credentials and identification shall have the right to access upon all properties for the purpose of investigating compliance, with all the requirements of this Code, state, federal regulations, and any permit, and for inspecting any sewer or storm drain connection, including, but not limited to, all discharge connections of roof and surface drains and plumbing fixtures; inspecting, observing, measuring, photographing, sampling, and testing the quality, consistency, and characteristics of sewage and industrial wastewaters being discharged into any public sewer or natural outlet; and inspecting and copying any records relating to quantity and quality of wastewater discharges, including, but not limited to, water usage and effluent discharge, chemical usage, and hazardous waste records.

(b) It shall be unlawful to unreasonably obstruct, delay, or interfere with the City access to the owner’s and/or operator’s premises.

(c) The Director may terminate service or revoke the permit of any person who has unreasonably refused or delayed access to the City”.

SECTION 24: Section 13.10.580 of Chapter 13.10 (entitled “Sewers”) of Title 13 (entitled “Public Services”) of the Code of the City of Santa Clara, California is amended to read as follows:

“13.10.580 Discharge reports.

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(a) Dischargers are subject to the reporting requirements as contained in Title 40 CFR. The Director may require that any person connected to or discharging wastewater into the sanitary sewer system file additional periodic discharge reports or a zero discharge report, including, but not limited to, the requirements contained in 40 CFR 403.12, or other applicable federal regulation.

(b) The periodic discharge report may be required to include, but need not be limited to, nature of process, volume, rates of flow, mass emission rate, hours of operation, number of employees, hauling record, potential slug discharge, or other information which relates to the generation of waste, including wastewater constituents and characteristics in the wastewater discharge and the ability of the discharger to meet applicable discharge limits.

(c) The zero discharge report shall certify that the zero discharger user does not discharge any process water to sanitary sewer system, or for a zero discharge categorical user, discharge any categorical process water or ancillary process water to the designated zero discharge categorical sample point or into the sanitary sewer system. This report may be required to include, but need not be limited to, the nature of the process, hours of operation, number of employees, hauling records, or other information that relates to the generation of wastes.

(d) The Director may also require such periodic discharge reports and zero discharge reports to include information concerning the chemical constituents and quantity of chemicals stored on site, including waste hauling records or other information, which relates to the generation of wastes even though they may not normally be discharged.

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(e) In addition to discharge reports, the Director may require dischargers to submit such additional reports as may be necessary to allow the City to evaluate the discharger's ability to comply with this chapter, including but not limited to best management practice or self-monitoring reports.

(f) It shall be unlawful for any person who has discharged wastewater to the sanitary sewer system to refuse to file any report requested by the Director, to file an incomplete or inaccurate report, or to file any report after the application due date specified by the Director.

(g) Sampling and analysis shall be performed in accordance with federal regulations including 40 CFR 403.12 and amendments thereto. Where federal regulations do not contain sampling or analytical methods for the pollutant in question, or where the Director determines that federal regulations are inappropriate for the pollutant in question, sampling and analysis shall be performed by using analytical methods validated by the Director."

SECTION 25: Section 13.10.590 of Chapter 13.10 (entitled "Sewers") of Title 13 (entitled "Public Services") of the Code of the City of Santa Clara, California is amended to read as follows:

"13.10.590 Termination of service.

(a) The Director may revoke any wastewater discharge permit, and/or terminate, or cause to be terminated, wastewater service to any premises:

(1) If a discharge of wastewater from the premises causes or threatens to cause a violation of any provision of this chapter or applicable local, State, or Federal regulations; or

(2) If a discharge of wastewater from the premises causes or threatens to cause a condition of contamination, pollution, or nuisance.

(3) If a permittee violates any provision of this chapter or applicable local, state or federal regulations or permit condition.

(b) This provision is in addition to other statutes, rules or regulations authorizing termination of service for delinquency in payment.”

SECTION 26: Section 13.10.600 of Chapter 13.10 (entitled “Sewers”) of Title 13 (entitled “Public Services”) of the Code of the City of Santa Clara, California is amended to read as follows:

“13.10.600 Permit revocation.

Wastewater discharge permits may be revoked if a permittee violates any provision of this chapter or applicable local, state, federal regulations or permit condition or for one or more material violations of this chapter, including but not limited to:

(a) Failure to notify the City of changes to the user’s operations or systems as described in the wastewater discharge permit application;

(b) Misrepresentation of or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(c) Falsifying self-monitoring reports;

(d) Tampering with monitoring facilities or equipment;

(e) Refusing to allow the City timely access to the facility premises and records;

(f) Failure to meet the prohibitions on discharge according to applicable State, Federal and local law;

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(g) Failure to meet compliance time schedules or any wastewater discharge permit conditions or requirements;

(h) Failure to pay fines and/or penalties;

(i) Failure to pay sewer charges;

(j) Failure to complete a wastewater discharge permit application or submit a discharge report;

(k) Violation of any pretreatment standard or requirement.”

SECTION 27: Section 13.10.640 of Chapter 13.10 (entitled “Sewers”) of Title 13 (entitled “Public Services”) of the Code of the City of Santa Clara, California is amended to read as follows:

“13.10.640 Violations and Penalties.

(a) No person shall discharge in violation of, or fail to comply with the requirements of a discharge permit, or any other provision of this chapter, or other regulations, or discharge limitations established by the city, or local, state and federal laws and regulations. Each violation of the permit condition or other rule, regulation, or law, shall be a separate violation under this code.

(b) Pursuant to SCCC Chapters 1.05 and 1.10, the City, in its prosecutorial discretion, may enforce violations of the provisions of this chapter as a criminal, civil, and/or administrative action. All penalties and citations pursuant to applicable law, including but not limited to Government Code Section 54740.5 and SCCC Chapters 1.05 and 1.10, shall apply to violations of this chapter.

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(c) In addition to the provisions of SCCC Chapters 1.05 and 1.10, and due to the significant potential harm caused to the environment by violation of provisions of this chapter, any person who intentionally, accidentally, or negligently violates any provisions of this chapter or any provision of any permit issued pursuant to this chapter, or who intentionally, accidentally, or negligently discharges waste or wastewater that causes pollution or violates any effluent limitation, standard of performance, or pretreatment or toxicity standard shall be civilly liable to the City in a sum up to ten thousand dollars (\$10,000.00) for the first day in which such violation occurs, up to twenty-five thousand dollars (\$25,000.00) for the second day in which such violation occurs, and fifty thousand dollars (\$50,000.00) for each additional day. The City may petition a court of appropriate jurisdiction to impose, assess, and recover such sums. Funds collected pursuant to this section shall be paid to City's environmental compliance fee account.

(d) Any assessed penalty shall be paid within ten days from the date of notice of such penalty. Interest shall accrue at the rate of the United States government T-Bills sold at the latest sale prior to the date of the delinquency plus three percent prorated per month or fraction thereof on the amount of penalty from the date of delinquency.

(e) The amount of any penalties imposed under this chapter which have remained delinquent for a period of sixty (60) days shall constitute a lien against the real property of the discharger from which the violation occurred resulting in imposition of the penalty. The Director shall cause the amount of uncollected penalty to be recorded with the County Recorder, in accordance with Government Code Section 54740.5.

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(f) The City may take enforcement action into immediate effect for any violation of this Code, including through escalation as set forth in the Enforcement Response Plan. Nothing in this Code or the Enforcement Response Plan requires escalation of enforcement and, instead, the City may take any action it deems necessary under the circumstances.

(g) Any and all remedies for violations of this chapter are cumulative and not exclusive and shall be in addition to all other remedies available to the City under State and Federal law and local ordinances. Funds collected pursuant to this section shall be paid to City's environmental compliance fee account."

SECTION 28: Section 13.10.670 of Chapter 13.10 (entitled "Sewers") of Title 13 (entitled "Public Services") of the Code of the City of Santa Clara, California is repealed.

SECTION 29: Ordinances Repealed. With exception of the provisions protected by the savings clause, all ordinances (or parts of ordinances) in conflict with or inconsistent with this ordinance are hereby repealed.

SECTION 30: Savings clause. The changes provided for in this ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any right established or accruing before the effective date of this ordinance; nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this ordinance. All fee schedules shall remain in force until superseded by the fee schedules adopted by the City Council.

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SECTION 31: Environmental Determination. This ordinance is exempt from review under the California Environmental Quality Act under Section 15308 of the CEQA Guidelines, actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.

SECTION 32: Effective date. This ordinance shall take effect thirty (30) days after its final adoption; however, prior to its final adoption it shall be published in accordance with the requirements of Section 808 and 812 of "The Charter of the City of Santa Clara, California."

PASSED FOR THE PURPOSE OF PUBLICATION this 14th day of December, 2021, by the following vote:

AYES:	COUNCILORS:	Becker, Chahal, Hardy, Jain, Park, and Watanabe, and Mayor Gillmor
NOES:	COUNCILORS:	None
ABSENT:	COUNCILORS:	None
ABSTAINED:	COUNCILORS:	None

ATTEST: 

 NORA PIMENTEL, MMC
 ASSISTANT CITY CLERK
 CITY OF SANTA CLARA

Attachments incorporated by reference: None