

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING  
VARIOUS SECTIONS OF CHAPTER 15.14 OF TITLE 15 OF  
THE SAN JOSE MUNICIPAL CODE REGARDING SEWER  
USE REGULATIONS**

**WHEREAS**, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the Director of Planning, Building and Code Enforcement has determined that the provisions of this Ordinance do not constitute a project, under File No. PP17-008 (General Procedure and Policy Making resulting in no changes to the physical environment); and

**WHEREAS**, the City Council of the City of San José is the decision-making body for this Ordinance; and

**WHEREAS**, this Council has reviewed and considered the "not a project" determination under CEQA prior to taking any approval actions on this Ordinance;

**NOW, THEREFORE**, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. A new Section is added to Chapter 15.14 of Title 15 of the San José Municipal Code, to be numbered, entitled, and to read as follows:

**15.14.216 Authorized or Duly Authorized Representative of the User**

**"Authorized or Duly Authorized Representative of the User" means:**

A. For a corporation:

1. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
2. The manager of one or more manufacturing, production, or operating facilities if the following criteria are met:
  - 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.

SECTION 2. A new Section is added to Chapter 15.14 of Title 15 of the San José Municipal Code, to be numbered, entitled, and to read as follows:

**15.14.221 Baseline Monitoring Report (BMR)**

“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.

SECTION 3. Section 15.14.230 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

**15.14.230 Best Management Practices**

"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 the sanitary or storm sewer system which 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.

SECTION 4. A new Section is added to Chapter 15.14 of Title 15 of the San José Municipal Code, to be numbered, entitled, and to read as follows:

**15.14.286 Enforcement Response Plan**

"Enforcement Response Plan" means the City's plan used to guide enforcement actions taken in response to violations of this Code.

SECTION 5. A new Section is added to Chapter 15.14 of Title 15 of the San José Municipal Code, to be numbered, entitled, and to read as follows:

**15.14.309 Indirect Discharge or Discharge**

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

SECTION 6. A new Section is added to Chapter 15.14 of Title 15 of the San José Municipal Code, to be numbered, entitled, and to read as follows:

**15.14.336 Ninety (90) Day Compliance Report**

“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 7. Section 15.14.360 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

**15.14.360 Plant**

"Plant" means the San José-Santa Clara Regional Wastewater Facility which is also known as the San José/Santa Clara Water Pollution Control Plant.

SECTION 8. Section 15.14.365 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

**15.14.365 Pretreatment Standard**

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

SECTION 9. Section 15.14.395 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

**15.14.395 Sanitary Sewer System**

"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.

SECTION 10. Section 15.14.405 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

**15.14.405 Significant Change**

"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 (12)-month annual~~ 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 (12)-month annual~~ 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 (12)-month annual~~ average process flow that results in a change from non-significant industrial user to significant industrial user or from significant industrial user to non-significant industrial user.
- D. An increase or decrease in ~~twelve (12)-month annual~~ 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 immediately preceding twelve (12) months.
- E. Adding or deleting process ~~es, process~~ discharges, or sample points.
- F. Waiver of monitoring requirements for any pollutant not present.

SECTION 11. Section 15.14.535 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

**15.14.535 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 wastes being deposited in the sanitary sewer system to prevent damage to or interference with the sanitary sewer system.

SECTION 12. Section 15.14.545 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

**15.14.545 Storm and Other Waters**

- A. No person shall discharge, cause, allow or permit any storm water, surface water, ground water, subsurface drainage or roof water 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 storm water shall only be issued if there is no reasonable alternative method for disposal of such water.
- C. If permitted, discharge of ground water, subsurface drainage, surface water, roof water, or storm water shall be subject to all applicable requirements of this Chapter 15.14, including but not limited to the payment of applicable permit fees



and such terms and conditions as the Director may impose on the wastewater discharge permit.

SECTION 13. Section 15.14.565 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

**15.14.565 Grease**

- 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 for all pollutants in violation of any applicable permit limits or any other pollutants as required by the Director within thirty (30) days of becoming aware of the violations.

SECTION 14. Section 15.14.575 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

**15.14.575 Corrosive Matter**

- 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 six (6) or equal to or greater than twelve and one-half (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 (30) days of becoming aware of the violation.

SECTION 15. Section 15.14.585 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

**15.14.585 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 below:

| Toxic Substance       | Standard Discharger<br>Maximum Allowable<br>Concentration | Low Flow Discharger<br>Maximum Allowable<br>Concentration |
|-----------------------|---|---|
| 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, <u>Total</u> | 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, <u>Total</u> | 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  |

- 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 injure or cause an interference with the sewage treatment process or pass through the plant, or in sufficient quantity to constitute a hazard to humans or animals, or in sufficient quantity to create a hazard for humans, or aquatic life in

any waters receiving effluent from the sanitary sewer system, or which may create a hazard in the use or disposal of sewage sludge.

- C. All samples, including grab and composite, may be used to evaluate shall demonstrate compliance with the above limits.
- 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 permit limits or any other pollutants as required by the Director within thirty (30) days of becoming aware of the violation.

SECTION 16. Section 15.14.645 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

**15.14.645 Installation and Maintenance of Amalgam Separators**

- A. Except as provided in Subsections B. and C. below, 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 July 1, 2009 without an amalgam separator. Proof of certification and installation records shall be submitted to the Director within thirty-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 ~~more than three days per calendar year, 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 (1) orthodontics; (2) periodontics; (3) oral and maxillofacial surgery; (4) radiology; (5) oral pathology or oral medicine; and (6) endodontistry and prosthodontistry.~~

- D. Amalgam separators shall be maintained in accordance with manufacturer recommendations. Installation, certification, and maintenance records shall be maintained for minimum of five (5) years and available for immediate inspection upon request therefore by the Director or designee during normal business hours.

SECTION 17. Section 15.14.690 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

**15.14.690 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 of the requirements of this Code, state, federal regulations, and any permit, and for inspecting any sewer or storm drain connection, including 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 discharged, 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 discharged wastewater to the sanitary sewer system and has unreasonably refused or delayed access to the City.

SECTION 18. Section 15.14.695 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

**15.14.695 Discharge Reports**

- A. Dischargers are subject to the reporting requirements as contained in Title 40 of the Code of Federal Regulations. 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 records, potential for 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-discharge user does not discharge any process water to sanitary sewer, or for a zero-discharge categorical user does not 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, nature of 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.
- 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 or application after the due date specified by the Director.
- G. Sampling and analysis shall be performed in accordance with federal regulations, including 40 CFR 136403.12 and amendments thereto. Where ~~40 CFR 136~~federal regulation does not contain sampling or analytical methods for the pollutant in question, or where the Director determines that ~~40 CFR 136~~federal

regulations are inappropriate for the pollutant in question, sampling and analysis shall be performed by using analytical methods validated by the Director.

SECTION 19. Section 15.14.710 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

**15.14.710 Termination of Service and Permit Revocation**

- 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 of Chapters 12.04 through 12.16 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; or
  3. If a permittee violates any provision of this Chapter or of Chapters 12.04 through 12.16 or applicable local, state or federal regulations, or permit condition.
- B. Written notice of the permit revocation or service termination, and a statement of the grounds therefor, shall be delivered to the discharger. The notice shall be effective ten (10) calendar days after it is served on the discharger, unless the Director determines that immediate permit revocation or suspension of service is necessary for the preservation of public health or safety or for the protection of public or private property. If the Director determines that immediate permit revocation or suspension of service is necessary, the Director may act to revoke



the permit or suspend service immediately after written notice is delivered to the discharger.

- C. It shall be unlawful for any person to discharge any material into the sanitary sewer system from any premises for which the permit has been revoked or wastewater service has been suspended or terminated.

SECTION 20. A new Section is added to Chapter 15.14 of Title 15 of the San José Municipal Code, to be numbered, entitled, and to read as follows:

**15.14.711 Summary Suspension**

- A. If the Director determines there is an imminent threat to the health, safety or welfare of the public as set out in Subsection B below, a permit may be summarily suspended for a period of time not to exceed thirty (30) days.
- B. The Director's determination that there is an imminent threat to the public health, safety or welfare shall be based on one or more of the following:
1. There is an urgent need to take immediate action to protect the public from a substantial threat of serious bodily injury or death existing on or within one hundred fifty (150) feet of the permitted premises; or
  2. There has been a violation of a permit condition or other requirement of this Code creates an imminent danger to the public health, safety or welfare on or within one hundred fifty (150) feet of the permitted premises;  
or

3. The permittee has conducted the permitted business in a manner that creates or results in a public nuisance, as defined in Section 1.13.050 of this Code or Sections 3479 and 3480 of the California Civil Code, and that public nuisance creates an imminent danger to the public health, safety or welfare on or within one hundred fifty (150) feet of the permitted premises.

C. The summary suspension shall take effect immediately upon service of a written notice of suspension by the Director. Notice given to the permittee shall include the following information:

1. The effective date and time period of the summary suspension;
2. The grounds and reasons upon which the summary suspension is based;
3. The permittee who wishes to challenge the summary suspension may request a hearing before the Director;
4. The method for requesting a hearing before the Director; and
5. The notice of summary suspension shall become final unless the Director receives a written request for a hearing from the permittee within the time period specified in Subsection E.

D. The summary suspension shall remain in effect unless and until the Director either:

1. Amends the notice of summary suspension to shorten the time period provided in the earlier notice of summary suspension; or

2. Issues a decision after holding a hearing pursuant to the requirements of this Section that modifies or overrules the summary suspension.
- E. If the permittee wishes to challenge the summary suspension, the permittee must file a written request for a hearing before the Director within three (3) business days after service of the notice of summary suspension. If the Director does not receive a request for a hearing from the permittee within this time period, the notice of summary suspension shall become final.
- F. The Director must respond to the permittee's request for a hearing by holding a hearing to affirm, modify or overrule the summary suspension within five (5) business days of the permittee's request for a hearing, unless the permittee requests an extension of the time within which the Director can hold the hearing.
- G. The Director shall serve a written notice of hearing on the permittee not later than two (2) business days after receiving the permittee's written request for a hearing. The notice of hearing shall contain the date, time and place at which the hearing shall be conducted.
- H. At the hearing before the Director, the permittee shall be given the opportunity to present evidence that either rebuts the ground(s) for which the summary suspension was issued or demonstrates that the reason or reasons leading to the summary suspension have been mitigated or corrected.
- I. The hearing will be conducted informally and technical rules of evidence shall not apply. Any and all evidence that the Director deems reliable, relevant and not unduly repetitious may be considered.

J. Following the conclusion of the hearing, the Director shall issue a decision which affirms, modifies or overrules the summary suspension, as specified in Subsection K. If the Director affirms or modifies the summary suspension, the Director may impose additional conditions upon the permit if those conditions were reviewed at the hearing and the conditions are intended to protect the health, safety or welfare of the public or prevent the conduct or condition that led to the summary suspension.

K. The Director shall issue an oral decision upon the close of the hearing or may communicate the decision by telephone, within twenty-four (24) hours of the close of the hearing. The Director shall also serve the permittee with a written decision within three (3) business days of the close of the hearing. The decision of the Director shall be final for purposes of this Code and Section 1.16.010.

SECTION 21. A new Section is added to Chapter 15.14 of Title 15 of the San José Municipal Code, to be numbered, entitled, and to read as follows:

**15.14.717 Cumulative Remedies**

The City may take enforcement action for any violation of this Code, including through escalation of enforcement 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. The remedies identified in the Enforcement Response Plan and this Code are cumulative, not exclusive, and are in addition to those the City may have at law, including administrative, civil, and criminal remedies.

SECTION 22. Section 15.14.720 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

**15.14.720 Violations and Civil 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. Any person who intentionally or negligently violates any provisions of this Chapter, any provision of any permit issued pursuant to this Chapter, or who intentionally or negligently discharges waste or wastewater which causes pollution, or violates any effluent limitation, national standard of performance, or national pretreatment or toxicity standard, shall be civilly liable to the City in a sum up to ten thousand dollars (\$10,000) for the first day in which such violation occurs, up to twenty-five thousand dollars (\$25,000) for the second day in which such violation occurs, and fifty thousand dollars (\$50,000) for each additional day.

SECTION 23. Section 15.14.725 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

**15.14.725 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 24. Section 15.14.745 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

**15.14.745 Signature Requirements**

A. Permit applications, discharge reports and any other reports required by the Director to be signed, shall be signed by an ~~executive officer~~ Authorized or Duly Authorized Representative of the business filing the application.

~~B. Such executive officer shall be at least of the level of vice president, general partner, president, or an individual responsible for the overall operation of the facility applying for said permit, or meet federal requirements for NPDES applications as contained in Title 40 of the Code of Federal Regulations.~~

~~BC.~~ Reports subject to the requirements of Title 40 of the Code of Federal Regulations shall include the following certification statement as contained in Title 40 of the Code of Federal Regulations:

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 25. Section 15.14.750 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

**15.14.750 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 ~~thirty (30) working~~ 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 26. Section 15.14.755 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

**15.14.755 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 to the City of San José Environmental Services Department within thirty (30) days of the date of the approved transfer.
- D. ~~However, nothing~~Nothing in this ~~Chapter~~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 27. Section 15.14.765 of Chapter 15.14 of Title 15 of the San José Municipal Code is amended to read as follows:

**15.14.765 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 laws 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 laws 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, including those necessary to meet categorical or other pretreatment standards;
  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 from 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; and
  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.

SECTION 28. A new Section is added to Chapter 15.14 of Title 15 of the San José Municipal Code, to be numbered, entitled, and to read as follows:

**15.14.770 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.

PASSED FOR PUBLICATION of title this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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SAM LICCARDO  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk