

REGULAR

NUMBER: 208.42

TITLE: AN ORDINANCE OF THE CITY OF MILPITAS REPEALING AND REPLACING TITLE VIII, CHAPTER 2, ARTICLE V OF THE MILPITAS MUNICIPAL CODE, RELATING TO USE OF PUBLIC SEWERS

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of _____, upon motion by Councilmember _____ and was adopted (second reading) by the City Council at its meeting of _____, upon motion by Councilmember _____. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

ORDAINING CLAUSE:

THE CITY COUNCIL OF THE CITY OF MILPITAS DOES ORDAIN AS FOLLOWS:

ORDINANCE 208.42

SECTION 1:

Title VIII, Chapter 2, Article V of the Milpitas Municipal Code is hereby repealed; and

SECTION 2:

That a new Title VIII, Chapter 2, Article V, entitled "Use of Public Sewers," of Milpitas Municipal Code is hereby adopted to read as follows:

TITLE VIII, CHAPTER 2, ARTICLE V GENERAL PROVISIONS FOR USE OF PUBLIC SEWERS

Section 5.01 Purpose of Chapter

The purpose of this chapter is to:

- (1) Provide for and regulate the disposal of sanitary sewage into the sanitary sewer system of the City in such manner and to such extent as is reasonably necessary to maintain and increase the ability of the sanitary sewer system to handle and dispose of sanitary sewage;
- (2) Provide for and regulate the disposal of industrial wastes into the sanitary sewer system of the City in such manner and to such extent as may be reasonably necessary to maintain and increase the ability of such system to handle and dispose of industrial waste without decreasing the ability of said system to handle and dispose of all sanitary sewage;
- (3) Prevent the introduction of pollutants into the sanitary sewer system which will pass through the treatment works of the San Jose/Santa Clara Water Pollution Control Plant (Plant) or otherwise be incompatible with such works or interfere with the ability of the Plant to treat, discharge and recycle wastewater, or to use or dispose of Plant biosolids;
- (4) Improve opportunities to recycle and reclaim treated effluent and wastewater sludge;
- (5) Protect the physical structures of the sanitary sewer system and the efficient functioning of its component parts;
- (6) Protect the City and its personnel; and preserve and protect the health, safety and property of the public;
- (7) Enable the City to comply with all applicable and compatible laws, rules, regulations and orders of the State of California and of the United States;
- (8) Provide for the charging and collection of various fees and other charges reasonably necessary for the acquisition, construction, reconstruction, maintenance and operation of the sanitary sewer system of the City;
- (9) Protect the environmental health of San Francisco Bay. (Ord. 208.28 (part), 7/18/95)

Section 5.02 Conflicts with the Plumbing Code

In the event of any conflicts or inconsistencies between the provisions of Chapter 7, Title II, and of this Chapter, the provisions of this Chapter shall control. (Ord. 208.28 (part), 7/18/95)

Section 5.03 Responsibility for Enforcement

The primary responsibility for enforcement of the provisions of this Chapter shall be vested in the City Engineer or his/her authorized representative or agent. Nothing herein is intended to restrict the City Attorney with respect to criminal or civil actions which may be taken to enforce this Chapter. (Ord. 208.28 (part), 7/18/95)

Section 5.04 Definitions

The definitions set forth below shall govern the application and interpretation of this Chapter.

- (1) **Accidental Discharge:** "Accidental discharge" means any discharge at a flow rate or concentration which could cause a violation of the discharge standards in this Chapter or any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or slug.
- (2) **Ammonia:** "Ammonia" means that form of nitrogen which is chemically definable as NH₃.
- (3) **Audit Protocols:** "Audit protocols" means the procedures to be followed in performing flow and pollutant audit studies.
- (4) **Average Concentration:** "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.
- (5) **Batch Discharge:** "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.
- (6) **Best Management Practices:** "Best management practices" means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the introduction of pollutants to the sanitary sewer system which have been determined by the City Engineer or by the Director of Environmental Services (Director) to be cost effective for particular industry groups, business types, or specific industrial processes.
- (7) **Biochemical Oxygen Demand (BOD):** "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 (5) days at a temperature of twenty degrees centigrade (20°C).
- (8) **Categorical Industrial User or CIU:** "Categorical Industrial User" or "CIU" means a source performing any categorical process subject to Federal pretreatment standards, as described in 40 CFR 405 - 471 that has any connection to the sanitary sewer system.
- (9) **Categorical Pretreatment Standard or Categorical Standard:** "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 405-471.
- (10) **Code of Federal Regulations (CFR):** "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 said Code, or to any other federal regulation, such reference shall apply to all amendments and additions to such portion of said Code now or hereafter enacted.

- (11) **Composite Sample:** "Composite sample" means sample that accurately represents the average pollutant concentration during a continuous time period.
- (A) A flow-proportional or time proportional sample may be obtained manually or automatically, and discretely or continuously. For manual compositing, at least six (6) 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.
- (B) If multiple batches are discharged over a 24-hour period, then one sample must be collected from each batch discharged in that 24-hour period and composited into a single sample. A single sample from a batch representing one or more production days will be considered a single composite sample.
- (12) **Continuous Discharge:** "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.
- (13) **Critical User:** "Critical User" means a discharger whose wastewater contains priority pollutants, or who discharges any waste which has the potential to cause interference in concentrations above those allowed in this Chapter or who discharges in excess of 100,000 gallons per day (gpd).
- (14) **Diluting Waters:** "Diluting waters" means noncontact cooling water, boiler blowdown, domestic sewage, groundwater, stormwater, surface drainage, reverse osmosis reject or potable waters which are not a part of an industrial process and which do not contain priority pollutants but are combined with industrial wastewater prior to the monitoring point for industrial wastewater discharge. Diluting waters also include excess water used in rinse tanks when not in production.
- (15) **Director:** "Director" for purposes of this Chapter, shall mean the City of San Jose Director of Environmental Services or his/her authorized representative or agent.
- (16) **Discharger:** "Discharger" means any person discharging wastewater into the sanitary sewer system.
- (17) **Domestic Wastewater:** "Domestic wastewater" means Wastewater from private residences and other premises resulting from the use of water for personal washing, sanitary purposes or the elimination of human wastes and related matter.
- (18) **Existing Source:** "Existing source" means any source of discharge that is not a New Source.
- (19) **Garbage:** "Garbage" means wastes from the preparation, cooking and dispensing of foods, and from the handling, storage and sale of produce.
- (20) **Grab Sample:** "Grab sample" means a single discrete sample collected at a particular time and place that represents the composition of the wastestream only at that time and place.
- (21) **Grease:** "Grease" means n-hexane-soluble matter, and shall include each of the following two types:
- (A) Dispersed grease, which means grease that is not floatable grease;
- (B) Floatable grease, which means grease that floats on the surface of quiescent sewage water or other liquid or which floats when mixed or added to water.
- (22) **Industrial User:** "Industrial user" means any nonresidential user that discharges industrial wastes to the sanitary sewer system.

(23) **Industrial Wastes:** "Industrial wastes" means the wastes from producing, manufacturing and processing operations of every kind and nature.

(24) **Interference:**

(A) "Interference" means a discharge which 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 Plant 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 Clean Water Act or in regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Water Act, the Toxic Substances Control Act, 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.

(25) **Low Flow Discharger:** "Low Flow Discharger" means an industrial discharger whose average process flow, as shown on the Dischargers' Application to Discharge and as measured as a rolling six month average, is less than one thousand (1,000) gpd.

(26) **Maximum Allowable Concentration:** "Maximum allowable concentration" means the highest permissible concentration or other measure of pollutant magnitude taken at a specific point in time or period of time.

(27) **New Source:** "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:

1. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
2. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
3. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.

(B) 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 Section A (2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.

(C) Construction of a New Source as defined under this paragraph has commenced if the Owner or Operator has:

1. Begun, or caused to begin, as part of a continuous onsite 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
2. Entered into a building 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 paragraph.
- (28) **Owner:** "Owner" means any person who owns private premises that contain a Source as defined in this Section.
- (29) **Operator:** "Operator" means any person who owns, leases, operates, controls, or supervises a Source as defined in this Section.
- (30) **Pass-Through:** "Pass-Through" means a discharge which exits the Plant into waters of the U.S. 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.
- (31) **pH:** "pH" means the logarithm of the reciprocal of the concentration of hydrogen ions in moles per liter of solution.
- (32) **Plant:** "Plant" means the San José/Santa Clara Water Pollution Control Plant.
- (33) **Pretreatment Standard:** "Pretreatment Standard" means prohibited discharge standards, Categorical Pretreatment Standards, and local limits.
- (34) **Pretreatment Requirements:** "Pretreatment Requirements" means any substantive or procedural requirement related to pretreatment imposed on an Industrial User other than a Pretreatment Standard.
- (35) **Priority Pollutants:** "Priority pollutants" means all pollutants as defined by the "General Pretreatment Regulations" of the Environmental Protection Agency, found at 40 CFR 401 and 403.
- (36) **Process Flow:** "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.
- (37) **Reasonable Control Measures:** "Reasonable control measures" means control technologies, best management practices, source control practices and waste minimization procedures which prevent or reduce the introduction of pollutants to the sanitary sewer system and are determined by the City Engineer to be cost effective for particular industry groups, business types or specific industrial processes.
- (38) **Sanitary Sewage:** "Sanitary sewage" means water-carried wastes from residences, business buildings, institutions and industrial establishments, excluding ground, surface and storm waters, subsurface drainage and also excluding industrial waste.
- (39) **Sanitary Sewer System:** "Sanitary sewer system" means all sewers, treatment plants, and other facilities owned or operated by the City of Milpitas or by the Plant for carrying, collecting, pumping, treating and disposing of sanitary sewage and industrial wastes.

- (40) **Sewer:** "Sewer" means a pipe or conduit for carrying sewage.
- (41) **Significant Change:** "Significant change" means any change in an Industrial User's operation that results in any of the following:
- a. A flow that exceeds the expected peak flow as shown in the sewage treatment plant connection allocation for the property on which the Industrial User is located.
 - b. An increase in average process flow of twenty-five percent (25%) over the Industrial User's average process flow for the dischargers' most immediate preceding compliance period.
 - c. Adding or deleting process discharge or sample points
- (42) **Significant Industrial User:** "Significant Industrial User" means:
- (A) An Industrial User that has processes subject to categorical Pretreatment Standards; or
 - (B) An Industrial User that:
 1. Discharges an average of 25,000 gpd or more of process wastewater to the sanitary system (excluding sanitary, noncontact cooling and boiler blowdown wastewater); or
 2. Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the Plant; or
 3. 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.
- (43) **Significant Noncompliance:** An Industrial User is in "significant noncompliance" if it has a violation or violations 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 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 403.3 (l) multiplied by the applicable TRC (TRC = 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 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 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, 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.
- (44) **Slug Load or Slug Discharge:** “Slug load” or “Slug discharge” means any discharge of a non-routine, 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.
- (45) **Source:** “Source” means any building, structure, facility or installation from which there is or may be a potential as determined by the Director to discharge pollutants above the local limits included in this Chapter or state or federal limits or wastewater of such volume or strength that is may cause Interference, Pass Through or operational problems in the sanitary sewer system or at the San José/Santa Clara Water Pollution Control Plant.
- (46) **Standard Discharger:** A “Standard discharger” means any Industrial Discharger who is not a Low Flow Discharger.
- (47) **Standard Methods:**
- (A) "Standard methods" means the procedures set forth in the Code of Federal Regulations, unless another method for the analysis of industrial wastewater has been approved, in writing, in advance of use of the procedure by the City Engineer.
- (B) All analyses shall be performed by a laboratory certified by the state for the specific pollutants and matrix to be analyzed, unless otherwise approved in writing, by the City Engineer, prior to performance of a sample analysis.
- (48) **Stormwaters:** “Stormwaters” means the flow across any surface or in storm sewers resulting from rainfall.
- (49) **Suspended Solids:** "Suspended solids" means solids that either float on the surface of, or are suspended in, water, sewage, or other liquids and which are removable by laboratory filtering.
- (50) **Total Toxic Organics (TTOs):** "Total toxic organics" (TTOs) are the sum of the concentrations for each of the regulated toxic organic compounds listed at 40 CFR 401.15 and are found in the discharge at a concentration greater than ten (10) micrograms per liter. Some categorical standards (40 CFR 405-471) list the specific toxic organic compounds that are to be included in the summation.
- (51) **Trucked or Hauled Waste:** "Trucked or hauled waste" means any waste discharged into the sanitary sewer system after being placed in a motorized vehicle for removal from the location where the waste was generated or produced. (Ord. 208.28 (part), 7/18/95)
- (52) **Zero Discharger:** “Zero Discharger” means an industrial facility that does not discharge any wastewater except domestic wastewater to the sanitary sewer system.

SEWER USE REGULATIONS

Section 5.05 Limitations on Point of Discharge

No person shall discharge any substances into a City sewer other than through a City-approved sewer connection. (Ord. 208.28 (part), 7/18/95)

Section 5.06 Authority to Limit Excess Industrial Use

After the effective date of this Section, unless approved by the City Council, no industrial connection shall be allowed if the City Engineer estimates that said connection will have an estimated flow which exceeds either twelve thousand (12,000) gallons per day per acre or 0.8 gallons per day per square foot of building area. However, the City Council may approve or disapprove said connection, notwithstanding the above, after a public hearing upon published notice (in accordance with Section 1-20-2.05 of the Milpitas Municipal Code) considering the following criteria:

1. Whether the specific use will overload the City's sewer system or the contractually available treatment capacity;
2. Whether the specific use will require an inequitable appropriation of water and sewage capacity compared to present and reasonably anticipated future needs of the other existing or future users (individual, commercial or industrial);
3. Whether the specific use will hamper the present and future development of land or facilities because the use preempts capacity required by said development;

The City Council may require any applicant for an excess use connection to provide City with a sewer master plan study by a consultant approved by City and paid for by applicant. The scope of said study shall be determined by City.

In addition thereto, the City may impose a reasonable fee for filing of any application hereunder.

The City Council may impose reasonable conditions upon the grant of said application in aid of protecting and providing for present and future water availability and sewage treatment capacity. (Ord. 208.28 (part), 7/18/95)

Section 5.07 Discharge into Storm Drain Prohibited

It shall be unlawful to discharge any sewage, industrial waste or other polluted waters into any storm drain or natural outlet or channel unless expressly allowed by a valid NPDES permit. (Ord. 208.28 (part), 7/18/95)

Section 5.08 Regulation of Trucked or Hauled Waste

No person shall discharge, cause, allow or permit any trucked or hauled waste to be discharged into the sanitary sewer system, except at a site specifically designated in a wastewater discharge permit issued pursuant to this Chapter.

Section 5.09 Protection from Accidental Discharge

- A. Each industrial user shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this Chapter into either the storm sewer or sanitary sewer systems.
- B. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the Industrial User's expense.
- C. All Industrial users shall notify the City by telephone or in person within one (1) hour of becoming aware of accidentally discharging wastes of reportable quantities as determined in 40 CFR 117 or discharge of any substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261, to enable

countermeasures to be taken by the City to minimize damage to the sanitary sewer system, Plant or treatment processes, and the receiving waters. If hazardous waste is discharged, Industrial User shall be subject to all requirements in 40 CFR 403.12(p).

- D. Telephone notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement to the City Engineer describing the causes of the accidental discharge and the measures being taken to prevent future occurrences.
- E. Notification to the City will not relieve Industrial Users of notification requirements under any other federal, state or local law; nor of liability for any expense, loss, or damage to the sanitary sewer system; Plant, treatment process, or receiving waters; or from any fines or penalties imposed on the City on account thereof under applicable provisions of state or federal law.
- F. All permitted facilities must maintain a spill control plan for protection against accidental discharges, including but not limited to, berming of chemicals and waste materials. The review of such plans and procedures shall not relieve the Industrial 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.
- G. This plan must be reviewed and revised as needed within thirty (30) days after an accidental discharge has occurred or as required by the City Engineer.

Section 5.10 Pretreatment by Owner

Each owner shall, at the Owner's own expense, provide such treatment or take such other measures, as the Chief Building Official 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. (Ord. 208.28 (part), 7/18/95)

Section 5.11 Monitoring Facilities

- A. The City Engineer may require any Discharger to the sanitary sewer system to construct, at the Discharger's own expense, and at an approved location, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer or internal drainage systems.
- B. The monitoring facilities, sampling and measurement equipment and access thereto shall be maintained at all times in a safe and proper operating condition at the expense of the Discharger.
- C. Any required monitoring facilities shall be specified in the wastewater discharge permit issued pursuant to this Chapter.
- D. Dischargers shall retain sufficient wastewater in their sample box at all times to allow sample collection representative of the last wastewater discharge

Section 5.12 Storm and Other Waters

- A. No person shall cause, allow or permit any uncontaminated stormwater, surface water or roof runoff, to be discharged into the sanitary sewer system.
- B. No person shall cause, allow or permit any uncontaminated groundwater or subsurface drainage to be discharged into the sanitary sewer system without a wastewater discharge permit issued by the City Engineer specifically for such discharge. (Ord. 208.28 (part), 7/18/95)

Section 5.13 Obstructing or Injurious Substances

No person shall cause, allow or permit to be discharged, thrown or deposited into the sanitary sewer system, or into any plumbing fixture or private sewer or drain connected either directly or indirectly to the sanitary sewer system, any substance of any kind whatsoever in violation of this Chapter. (Ord. 208.28 (part), 7/18/95)

Section 5.14 Flammable or Explosive Substances

No person shall cause, allow or permit to be discharged into the sanitary sewer system, any wastewater containing any flammable liquid, solid, vapor or gas or other substance, including but not limited to any substance having a closed cup flashpoint of less than one hundred forty degrees Fahrenheit (140°F) or sixty degrees Celsius (60°C), using the test methods specified in Code of Federal Regulations 40 Section 261.21. (Ord. 208.28 (part), 7/18/95)

Section 5.15 Hot Substances

No person shall cause, allow or permit to be discharged into the sanitary sewer system any liquid, solid, vapor, gas or thing having or developing a temperature of one hundred fifty degrees Fahrenheit (150°F) or more, or which may cause the temperature at the San Jose/Santa Clara Water Pollution Control Plant to exceed one hundred four degrees Fahrenheit (104°F). (Ord. 208.28 (part), 7/18/95)

Section 5.16 Grease, Oils, Fats

No person shall cause, allow or permit to be discharged into the sanitary sewer system any liquid or other waste containing floatable and/or dispersed grease, vegetable oil, petroleum oil, nonbiodegradable cutting oil, or fat, oil or grease or products of animal, vegetable or mineral origin, in excess of one hundred fifty (150) parts per million by weight. (Ord. 208.28 (part), 7/18/95)

Section 5.17 Solid or Viscous Matter

No person shall cause, allow or permit to be discharged into the sanitary sewer system any ashes, cinders, pulp, paper, sand, cement, mud, straw, shavings, metal, glass, rags, feathers, tar, asphalt, resins, plastics, wood, animal hair, paunch manure, or any heavy solid or viscous substance capable of causing obstruction to the flow in the sanitary sewer system or which would interfere with the proper operation of the San Jose/Santa Clara Water Pollution Control Plant or the treatment of sanitary sewage or industrial waste. (Ord. 208.28 (part), 7/18/95)

Section 5.18 Corrosive Matter

No person shall cause, allow or permit to be discharged into the sanitary sewer system any liquid, solid, vapor, gas or thing having a pH lower than six (6.0) or more 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 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. (Ord. 208.28 (part), 7/18/95)

Section 5.19 Toxic Gases, Vapors or Fumes

No person shall cause, allow or permit to be discharged into the sanitary sewer system any substance of any kind whatsoever which results in the presence of toxic gases, vapors or fumes within the sanitary sewer system in a quantity that may cause acute health and/or safety problems for workers in the sanitary sewer system. (Ord. 208.28 (part), 7/18/95)

Section 5.20 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 Maximum Allowable Concentration	Low Flow Discharger Maximum Allowable 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
Cyanides	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
Phenol and derivatives	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, both grab and composite, 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 5.21 Prohibition on Use of Diluting Waters

The use of diluting waters as a partial or complete substitute for adequate treatment, to achieve compliance, or to meet local limitations for wastewater as set forth in Section 5.20, or to avoid or minimize any requirements imposed in a wastewater discharge permit is prohibited. (Ord. 208.28 (part), 7/18/95)

Section 5.22 Suspended Solids--Dissolved Matter

No person shall cause, allow or permit to be discharged into the sanitary sewer system any liquid containing suspended solids or dissolved matter of such character and quantity that unusual attention or expense is required

to handle, process or treat such matter at the San Jose/Santa Clara Water Pollution Control Plant. (Ord. 208.28 (part), 7/18/95)

Section 5.23 Noxious or Malodorous Matter

No person shall cause, allow or permit to be discharged into the sanitary sewer system any solid, liquid, vapor, gas or thing which is so malodorous or noxious that their discharge into the sanitary sewer system would cause a public nuisance. (Ord. 208.28 (part), 7/18/95)

Section 5.24 Radioactive Matter

No person shall cause, allow or permit to be discharged, any radioactive waste into the sanitary sewer system, except, that persons authorized to use radioactive materials by governmental agencies empowered to regulate the use of radioactive materials may cause to be discharged, or permit to be discharged such wastes, provided that such wastes are discharged in strict conformance with all applicable laws. (Ord. 208.28 (part), 7/18/95)

Section 5.25 Colored Matter

No person shall cause, allow or permit to be discharged into the sanitary sewer system any wastewater with objectionable color not removed in the treatment process such as, but not limited to, dye wastes and vegetable tanning solutions. (Ord. 208.28 (part), 7/18/95)

Section 5.26 Copper-Based Chemical Compound

No person shall discharge, dispose of or add to the sanitary sewer system any substance containing greater than five percent (5%) copper by weight. (Ord. 208.28 (part), 7/18/95)

Section 5.27 Garbage

- A. No person shall cause, allow or permit to be discharged, deposited or thrown into the sanitary sewer system any garbage, fruit, vegetable, animal or other solid material from any industrial plant or retail grocery store, irrespective of whether or not it first passed through a mechanical grinder.
- B. No person shall install, operate, use or maintain upon the premises of any industrial plant or retail grocery store, any mechanical grinder or waste grinder that is connected directly or indirectly to the sanitary sewer system.
- C. No person shall cause, allow or permit to be discharged, into the sanitary sewer system any garbage, fruit, vegetable, animal or other solid kitchen waste material resulting from the preparation of any food or drinks, in any dwelling, restaurant or eating establishment, unless the same shall have first been passed through a mechanical garbage or waste grinder in conformance with the provisions of Chapter 7, Title II, Uniform Plumbing Code of the City of Milpitas Municipal Code. (Ord. 208.28 (part), 7/18/95)

Section 5.28 Oil and Grease Removal Devices

- A. Any type of business or establishment where grease or other objectionable materials may be discharged into a public or private sewage main or disposal system shall have a grease removal device installed and maintained by the owner at his expense, of a size and design approved by the City Engineer.
- B. Each grease removal device shall be so installed and connected that it shall be at all times easily accessible for inspection, cleaning and removal of grease.

- C. The grease removal device should be situated on the discharger's premises but when such a location would be impractical or cause undue hardship on the discharger, the City may issue an encroachment permit to allow the device to be installed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.
- D. Waste discharge from fixtures and equipment in establishments which may contain grease or other materials including, but not limited to, scullery sinks, pot and pan sinks, dishwashers, food waste disposals, soup kettles, and floor drains located in areas where such objectionable materials may exist, may be drained into the sanitary waste through the grease removal device when approved by the City Engineer provided, however, that toilets, urinals, washbasins, and other fixtures containing fecal material shall not flow through the grease removal device.
- E. Grease removal devices shall be maintained by the owner, in efficient operating condition by periodic removal of the accumulated grease. The use of chemicals to dissolve grease is specifically prohibited. No accumulated grease shall be introduced into any drainage piping or public or private sewer. Users with oil and grease removal devices shall maintain them in good operating condition at all times.
- F. The discharger shall develop and maintain a record of periodic maintenance and pumping of the removal device, and records shall be retained for at least three years.
- G. Pumping shall be sufficiently frequent to prevent objectionable odors, surcharge of the removal device, or interference with the operation of the sanitary sewer system.
- H. Abandoned grease removal devices shall be emptied and filled. (Ord. 208.28 (part), 7/18/95)

Section 5.29 Screened Industrial Wastes

- A. No person shall cause, allow or permit to be discharged into the sanitary sewer system any garbage, fruit, vegetable, animal, or other solid industrial wastes resulting from the processing, packaging, or canning of fruits, vegetables, or other foods or products, unless such wastes have first been passed through screens having openings not exceeding one thirty-second ($1/32$) of an inch in dimension.
- B. The City Engineer may authorize, in writing, the discharge into the sanitary sewer system of such wastes if they are first passed through screens having larger openings than one thirty-second ($1/32$) of an inch, if the City Engineer is satisfied that such larger openings will provide screening efficiency and effectiveness equal to or better than that provided by the above-specified openings of one thirty-second ($1/32$) of an inch in dimension.
- C. Each person who causes, allows or permits to be discharged into the sanitary sewer system any such wastes shall install and maintain in good operating order, screens as herein above specified and appurtenances thereto, including but not limited to all necessary conveyors and elevators, all in sufficient quantity and of sufficient size and quality to continuously and effectively screen not less than one hundred percent (100%) of the peak hydraulic and solids loading imposed on such screens and appurtenances during any processing period.
- D. No person shall discharge any such screened wastes into the sanitary sewer system, unless and until he or she has obtained a wastewater discharge permit pursuant to this Chapter. The City Engineer may require such person to provide to the City Engineer a report prepared by a registered professional engineer which shows, to the satisfaction of the City Engineer, that the provisions of this Chapter have been complied with, before the wastewater discharge permit is granted. (Ord. 208.28 (part), 7/18/95)

Sections 5.30 through 5.37 are not used.

Section 5.38 Falsification of Information

It is unlawful to make any false statement, representation, record, report, plan or other document or to tamper with or render inaccurate any monitoring device or equipment or divert flow from any monitoring device or equipment installed or operated pursuant to this Chapter or to any permit issued under this Chapter.

In addition to any other punishment or remedy provided by law, any such falsification or tampering shall be grounds for revocation of any permit issued under this Chapter. (Ord. 208.28 (part), 7/18/95)

Section 5.39 Power to Inspect

The City Engineer and his or her designees shall have the right to access all properties for the purpose of 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 discharged, chemical usage, and hazardous waste records.

The City Engineer and his or her designees may terminate service or revoke the permit of any person who has discharged wastewater to the sanitary sewer system or has unreasonably refused access to the City. (Ord. 208.28 (part), 7/18/95)

Section 5.40 Discharge Reports

- A. The City may require that any person connected to or discharging wastewater into the sanitary sewer system file periodic discharge reports or a zero discharge reports.
- B. The periodic discharge reports 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 Discharger does not discharge Industrial Waste to 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 City 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 the above described reports, the City may require Dischargers to submit such additional reports as may be necessary to allow the City and the Plant 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 is unlawful for any person who has discharged wastewater into the sanitary sewer system to refuse to file any report requested by the City.

- G. Sampling and analysis shall be performed in accordance with 40 CFR 136 and amendments thereto. Where 40 CFR 136 does not contain sampling or analytical methods for the pollutant in question, or where the Director determines that 40 CFR 136 are inappropriate for the pollutant in question, sampling and analysis shall be performed by using analytical methods validated by the Director.

Section 5.41 Mandatory Wastewater Discharge Permits

No Critical 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 5.42 Permit Application

- A. All persons requiring a wastewater discharge permit shall file a complete application in the form prescribed by the Director and accompanied by the applicable fees.
- B. The Director will evaluate the data furnished by the user and may require additional information. After evaluation and approval of all the data required, the Director may issue a wastewater discharge permit subject to terms and conditions provided therein. The Permit will be co-signed by the City Engineer or his/her designee prior to issuance.
- C. 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.
- D. All persons discharging wastewaters 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.
- E. Permit applications, discharge reports and any other reports required by the City Engineer or Director shall be signed by an executive officer of the business filing the application. Such executive officer shall be at least at 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. (Ord. 208.28 (part), 7/18/95)

Section 5.43 Record Keeping

All Industrial Users subject to the reporting requirements of this Chapter shall retain and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Chapter, and any additional records of information obtained pursuant to monitoring activities undertaken by the Industrial User independent of such requirements. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any enforcement action concerning the Industrial User, or where the Industrial User has been specifically notified of a longer retention period by the City Engineer.

Section 5.44 Additional Information

- A. If the City Engineer or the Director is not satisfied that the permit application has sufficient information to determine whether the permit should be issued, the City Engineer or the Director may refuse to issue the permit or request that the applicant submit further information.
- B. The applicant shall have thirty (30) working days, or such longer period of time as allowed by the City Engineer or 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 discharge permit must be submitted along with the application fees and any delinquent fees for a new permit.

Section 5.45 Denial of Permit

The City Engineer or the Director may deny a wastewater discharge permit if one or more of the following conditions exist:

- A. The application is not accompanied by the required fee(s).
- B. The application contains false or misleading information.
- C. The issuance of the permit would result in the discharge of industrial wastes of such quantity or strength that the public health or safety, or public or private property are endangered.
- D. The issuance of the permit would cause the San Jose/Santa Clara water pollution control plant to violate any permit conditions, laws, or regulations of the State and/or federal government.
- E. The applicant has not provided adequate information to establish that its discharge will comply with all requirements of this Chapter and with such other terms and conditions as the City Engineer or the Director of Environmental Services may deem necessary to include in the discharger's permit.
- F. The applicant has not provided plans for sufficient protection from accidental discharges to the land, storm sewer system or sanitary sewer system.
- G. If the Director refuses to issue a Permit, the application fees shall not be returned to the applicant unless the Director has ascertained that a permit is not required to discharge the wastewater for which the Permit Application is made.
- H. The City Engineer finds that sufficient Remaining Allocable Capacity for the City of Milpitas as previously defined and more precisely explained in an Agreement By and Between the Cities of San Jose and Santa Clara, and the City of Milpitas, Providing Allocation of Treatment Capacity dated December 3, 1985, is not available. (Ord. 208.28 (part), 7/18/95)

Section 5.46 Permit Duration and Amendment

Discharge permits shall be issued for a specific duration, not to exceed five (5) years. Permits shall be subject to amendment by the City as limitations or requirements for discharge are modified and changed. The holder of a discharge permit shall be informed of any proposed amendment to its permit at least thirty (30) days prior to the effective date of the amendment. The Director may include a compliance schedule in an amended permit.

Section 5.47 No Transfer of Permit

Discharge permits are issued to a specific User for a specific operation. No User shall assign, transfer or sell a discharge permit, or use the permit for premises or for facilities or operations not covered by the permit.

Section 5.48 Delinquent Fees

- (A) Permit applications are due ninety (90) days prior to commencing discharge to the sanitary system or expiration of existing discharge permit. Any person who fails to file an application for a discharge permit prior to discharge shall be assessed a penalty for delinquent filing as follows:

1. Up to and including thirty (30) days delinquency, the penalty shall be fifty percent (50%) of the permit fee.
 2. More than thirty (30) days but less than one year delinquency, the penalty shall be one hundred percent (100%) of the permit fee.
 3. More than one (1) year delinquency, the penalty shall be one thousand percent (1,000%) of the permit fee.
- (B) Such penalties shall be in addition to any other penalties or fines that may be levied, and in addition to any other remedies that the City may have with respect to the discharge.

Section 5.49 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 Plant, the City and all applicable local, state and federal laws and regulations.
- (B) The permit may include such terms and conditions as the City Engineer or 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;
 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/or the Plant and affording the City and the Plant access thereto;
 7. Requirements for notification to the City and the Plant 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 the City Code or other state or federal regulations;
 9. Requirements for notification of accidental discharges.
 10. The installation and maintenance by the discharger, at discharger's expense, of facilities or equipment for intermittent or continuous measurement of the quantity or quality of sewage, industrial waste or other wastes discharged into the sewer system from such premises;
 11. The installation and maintenance by the discharger, at discharger's expense, of such preliminary treatment facilities as may be required by the City or the San Jose/Santa Clara Water Pollution Control Plant;

12. The installation and maintenance by the discharger, at discharger's own expense, of a suitable control manhole in the portion of the side sewer located on the private property to facilitate observation, sampling and measurement of the waste. Such manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the City and/or the San Jose/Santa Clara Water Pollution Control Plant;
13. The installation and maintenance by the discharger, at discharger's expense, of grease, oil and sand interceptors or traps that are necessary for the proper handling of liquid wastes, containing grease and excessive amounts of any inflammable waste, and other harmful ingredients. All interceptors or traps shall be of an approved type and capacity and shall be so located as to be readily and easily accessible for cleaning and inspection;
14. The submission to and approval by the City or the San Jose/Santa Clara Water Pollution Control Plant of the plans for any of the above facilities or equipment required to be installed and maintained by the discharger;
15. Such other terms and conditions as may be necessary to protect the sewer system and carry out the provisions of this Chapter. (Ord. 208.28 (part), 7/18/95)

Section 5.50 Permit Revocation

(A) Any user who violates the conditions of the industrial Wastewater Discharge Permit, any provisions of this Chapter or any provisions of applicable state and federal regulations; or who engages in any of the following conduct may be subject to permit revocation or termination:

1. Failure to factually report the wastewater constituents and characteristics of the discharge;
2. Failure to report significant changes in operations or wastewater constituents and characteristics;
3. Refusal of reasonable access to user's premises for the purpose of inspection, monitoring, or verification of records;
4. Nonpayment of fees and charges.

(B) If a discharger of wastewater from the premises causes or threatens to cause a condition of contamination, pollution, or nuisance, the discharger may be subject to permit revocation or termination. (Ord. 208.28 (part), 7/18/95)

Section 5.51 Effect of Permit Suspension or Revocation

It is 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. (Ord. 208.28 (part), 7/18/95)

Section 5.52 Procedure for Suspension or Revocation of a Permit and Discontinuance of Sewer Services- -Notice and Hearing

Prior to the suspension or revocation of a permit and the termination of service and disconnection of sanitary and waste disposal facilities, the City Council will notify, in writing, the owner and tenant, if any, of the property affected and for which the permit was issued.

Said Notice will advise that the City will consider the suspension or revocation of the permit, termination of service and disconnection.

Said Notice will state the date of proposed suspension or revocation, termination of service and proposed disconnection of service and the reason therefore and the time and date and place that the City Council intends to hold a hearing upon said proposed suspension, revocation, termination and disconnection.

Said hearing will not be less than ten (10) working days subsequent to the giving of notice as herein required.

Said Notice will be mailed to the owner at the address shown on the records of the Assessor of Santa Clara County or as known to the City, and a copy shall be delivered to the tenant or posted conspicuously on the property affected. City may give such further or additional notice as in the discretion of the City is convenient or desirable.

Upon the conclusion of the hearing, the City Council will adopt a resolution determining whether grounds exist for suspension or revocation, for termination and for disconnection of service.

If such grounds are found to exist, the permit may be suspended or revoked and service may forthwith be terminated and sanitary and waste disposal facilities forthwith disconnected in City Council's sound discretion.

A copy of said resolution will be mailed to the owner at the address shown on the records of the Assessor of the County or as known to the City and a copy delivered to the tenant or posted conspicuously on the property. The City's failure to take any of the above prescribed steps shall not constitute a basis for discharger's appeal to be granted. (Ord. 208.28 (part), 7/18/95)

Section 5.53 Permit Appeals

- A. Any permittee or permit applicant may appeal a notice of revocation of a discharge permit, notice of denial of a permit, any term or condition of a permit, amendment of a permit or notice of termination of service to the Director.
- B. A request for hearing on a decision to revoke a permit or terminate service shall be filed, in writing, with the Director, within ten (10) days after the date the notice of revocation or termination of service is served on the permittee. A request for hearing on a decision to revoke a permit or terminate service shall, except in the case of immediate permit revocation or suspension of service for the preservation of public health or safety or for the protection of public or private property, stay the effect of the notice of revocation or termination of service, during the pendency of the appeal.
- C. A request for hearing on a decision to deny a permit, on the terms or conditions in a permit, on an amendment to a permit, shall be filed, in writing, with the Director, within thirty (30) days after the date the notice of decision is served on the applicant.
- D. Failure of a permittee or applicant to timely request a hearing shall be deemed acceptance of the Director's decision and the Director's decision shall be deemed final and effective.
- E. At the hearing before the Director, the applicant shall be given an opportunity to present witnesses and documentary and other evidence.
- F. The hearing will be conducted informally and technical rules of evidence shall not apply. Any and all evidence which the Director deems reliable, relevant, and not unduly repetitious, may be considered.
- G. The applicant may be represented at the hearing by any other person.

- H. The Director shall provide written notice of decision on the appeal to the permittee or applicant. The decision of the Director on the appeal shall be deemed final and effective three (3) days after notice of the decision on appeal is served on the permittee or applicant.
- I. Filing of a request for hearing shall not entitle any person to discharge in violation of any of the provisions of this code.

Section 5.54 Civil Penalties

Any person who intentionally, accidentally or negligently violates any provisions of this Chapter, any provision of any permit issued pursuant to this Chapter, or who intentionally, accidentally, 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. (Ord. 208.28 (part), 7/18/95)

Section 5.55 Publication of Users In Significant Noncompliance

The Director is authorized to publish annually, a list of the Significant Industrial Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance is defined in the Code of Federal Regulations, 40 CFR 403.8.

SECTION 3

Severability: If any provision of this ordinance or the application thereof to any person or circumstance is held invalid or unenforceable by a court of competent jurisdiction, the remainder of the ordinance and all prior amendments, language and iterations of any related ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of the ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clause, or phrases, or the application of any of the foregoing to a particular person or circumstance, be held unconstitutional, invalid, or unenforceable.

SECTION 4

Effective Date: Publication. In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect and be in force thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance to be published in accordance with Section 36933 of the Government Code of the State of California.

Attachment 1 – Summary of Proposed Sewer Use Ordinance Changes

Subject Area	Summary of Proposed Changes	Reason or Purpose of Change
Local Limits	Revises sewer use ordinance language including definitions and other sections as required to implement the revised local limits	Federal pretreatment regulations
Zero Discharge Categorical Permits	Revises sewer use ordinance language including definition and other sections to expand the City’s authority to issue discharge permits to categorical industries that do not discharge wastewater from a categorical process to the sanitary sewer.	Federal Pretreatment Standards
Federal Definitions	Adds the following federal definitions: <ul style="list-style-type: none"> • Pass-through • Significant Industrial User • Significant Change • Existing Source’ • Categorical Industrial User or CIU • New Source • Pretreatment Standard • Pretreatment Requirements 	Federal Pretreatment Standards
New Definitions	Adds the following new definitions: <ul style="list-style-type: none"> • Composite Sample • Contaminated Stormwater • Continuous Discharge • Discharger • Domestic Wastewater • Diluting Waters • Discharger • Owner • Operator 	Programmatic Clarification
Batch Discharge and Sampling Definition	Clarifies language by defining Batch Discharge and Sampling, as: <ul style="list-style-type: none"> • Batch Discharge is the discharge of wastewater resulting from and 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. • Batch discharge sample is a composite sample • If multiple batch discharges occur over a 24-hour period, then one sample from each batch discharged in the 24-hour period must be composite into a single sample. 	Federal Pretreatment Standards

Subject Area	Summary of Proposed Changes	Reason or Purpose of Change
Accidental Slug Discharges	<p>Clarified definition to include any unintentional, unanticipated, or unexpected discharge; any not-routine, or episodic discharge; potential to violate any discharge standards. Includes spills or slug discharges.</p> <p>Revised language for the following requirements:</p> <ul style="list-style-type: none"> • All permitted facilities will be required to maintain and regularly update a spill control plan. • Facilities are required to submit notification of a slug discharge within one hours of learning of violation. 	Federal Pretreatment Standards
Accidental Discharges	Clarified language requiring a spill prevention plan or plan update within 30 days after an accidental discharge	Federal Pretreatment Standards
Monitoring Facilities	Adds requirement that sample points must be designed to retain a volume of the last wastewater discharges so that representative sample of the last discharge can be collected at any time.	Programmatic Changes
Interfering Substances	Add language specifying that once a violation has occurred, the discharge is required to collect another sample of process wastewater, analyze the sample, and submit the result with 30 days of a violation	Federal Pretreatment Standards
Late Permit Applications	Revises language to specify that permit application are due 90 days prior to discharge to the sanitary system or expiration of existing discharge permit	Programmatic Changes
Recordkeeping	<p>Adds language incorporating the recordkeeping requirements currently stated in discharge permits:</p> <ul style="list-style-type: none"> • Monitoring reports and related information shall be available on site for review and coping. • Records must be retained for at least 3 years, but this may be automatically extend in the event of any enforcement actions, or where the industrial user has been specifically notified of a longer retention period 	Federal Pretreatment Standards
Discharge Reports	<p>Expands reporting requirements to include:</p> <ul style="list-style-type: none"> • Waste hauling records or other information relation to generation of wastes. • Baseline monitoring reports or other implementation plans required to bring Discharge into compliance 	Federal Pretreatment Standards