

REGULAR

NUMBER: 208.48

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING THE SEWER USE ORDINANCE

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of May 15, 2012, upon motion by Councilmember Polanski and was adopted (second reading) by the City Council at its meeting of June 5, 2012, upon motion by Vice Mayor McHugh. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES: (5) Mayor Esteves, Vice Mayor McHugh, Councilmembers Giordano, Gomez, and Polanski

NOES: (0) None

ABSENT: (0) None

ABSTAIN: (0) None

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

RECITALS AND FINDINGS:

WHEREAS, revisions and updates to the City's ordinance for the general use of public sewers use are necessary; and

WHEREAS, the City of Milpitas contracts with the San Jose/Santa Clara Water Pollution Control Plant for wastewater treatment and disposal and is bound by the terms of the Master Agreement for this service; and

WHEREAS, the City of San Jose requires all dischargers to the San Jose/Santa Clara Water Pollution Control Plant to revise their sewer use ordinances to correct deficiencies in the City of San Jose Pretreatment Program identified by the U.S. Environmental Protection Agency; and

WHEREAS, the City Council finds, pursuant to Title 14 of the California Code of Regulations, Sections 15061(b)(3) and 15308, that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project which has the potential for causing a significant effect on the environment and also merely amends parts of a regulatory process for the protection of the environment.

NOW, THEREFORE, the City Council of the City of Milpitas does ordain as follows:

SECTION 1. RECORD AND BASIS FOR ACTION

The City Council has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2. AMENDMENT OF SECTION 5.04 OF CHAPTER 2 OF TITLE VIII OF THE MILPITAS MUNICIPAL CODE

Section 5.04 (18) of Chapter 2 of Title VIII of the Milpitas Municipal Code is hereby amended to read as follows:

- (18) **Diluting Waters.** "Diluting Waters" means non-contact cooling water, boiler blowdown, domestic sewage, groundwater, stormwater, surface drainage, reverse osmosis reject, water softener regeneration, potable waters, or any waters which are not 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 includes excess water used in production processes, such as rinse tanks or rinse water running when in production in excess of operational or quality requirements.

Section 5.04 (52) of Chapter 2 of Title VIII of the Milpitas Municipal Code is hereby amended to read as follows:

- (52) **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 or decrease in annual average process flow of twenty-five (25) percent over the Standard Discharger's average process flow for the dischargers' most immediate preceding twelve (12) months.
 - (c) An increase or decrease in annual average process flow that results in a change from Low Flow Discharger to Standard Discharger or from Standard Discharger to Low Flow Discharger.
 - (d) An increase or decrease in 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.
 - (e) An increase or decrease in annual production rate of twenty-five (25) percent for any industrial user subject to production-based limits over the industrial user's production rate for the most immediate preceding twelve (12) months.

- (f) Adding or deleting process discharge or sample points.

Section 5.04 (65) of Chapter 2 of Title VIII of the Milpitas Municipal Code is hereby amended to read as follows:

- (65) **Zero Discharge Categorical User or ZDC.** “Zero discharge categorical user” or “ZDC” means an industrial facility that performs any categorical process subject to federal pretreatment standards, as described in 40 CFR 405-471, that has any connection to the sanitary sewer system, but does not discharge wastewater from the categorical process to the sanitary sewer.

SECTION 3. AMENDMENT OF SECTION 5.12 OF CHAPTER 2 OF TITLE VIII OF THE MILPITAS MUNICIPAL CODE

Section 5.12 of Chapter 2 of Title VIII of the Milpitas Municipal Code is hereby amended to read as follows:

VIII-2-5.12 - Stormwater and Other Waters

- (a) No person shall discharge, cause, allow or permit any stormwater, surface water, groundwater, subsurface drainage or roof water to be discharged into the sanitary sewer system or any part thereof without a wastewater discharge permit.
- (b) A wastewater discharge permit for the discharge of groundwater, subsurface drainage, surface water, roof water, or stormwater shall only be issued if there is no reasonable alternative method for disposal of such water.
- (c) If permitted, discharge of groundwater, subsurface drainage, surface water, roof water, or stormwater shall be subject to all applicable requirements of this Chapter, including but not limited to the payment of applicable permit fees and such terms and conditions as the City Engineer and the San Jose Director of Environmental Services may impose on the wastewater discharge permit.

SECTION 4. AMENDMENT OF SECTION 5.18 OF CHAPTER 2 OF TITLE VIII OF THE MILPITAS MUNICIPAL CODE

Section 5.18 of Chapter 2 of Title VIII of the Milpitas Municipal Code is hereby amended to read as follows:

VIII-2-5.18 - Corrosive Matter

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 or causing a pH lower than six (6.0) 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, constructing said sanitary sewer system or any part thereof, or working in or about the sanitary sewer system.

SECTION 5. AMENDMENT OF SECTION 5.21 OF CHAPTER 2 OF TITLE VIII OF THE MILPITAS MUNICIPAL CODE

Section 5.21 of Chapter 2 of Title VIII of the Milpitas Municipal Code is hereby amended to read as follows:

VIII-2-5.21 - Prohibition on Use of Diluting Waters

No Industrial User shall ever increase the use of process water, or in any way use diluting waters as a partial or complete substitute for adequate treatment, or to meet local limits or achieve compliance with a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or Requirement.

SECTION 6. AMENDMENT OF SECTION 5.46 OF CHAPTER 2 OF TITLE VIII OF THE MILPITAS MUNICIPAL CODE

Section 5.46 of Chapter 2 of Title VIII of the Milpitas Municipal Code is hereby amended to read as follows:

VIII-2-5.46 - Signature requirements

- (a) Permit applications, discharge reports and any other reports required by the City or the San Jose Director of Environmental Services shall be signed by an executive officer of the business filling 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 CFR.
- (c) Reports subject to the requirements of Title 40 of the CFR shall include the certification statement as contained in Title 40 of the CFR.

SECTION 7. AMENDMENT OF SECTION 5.48 OF CHAPTER 2 OF TITLE VIII OF THE MILPITAS MUNICIPAL CODE

Section 5.48 of Chapter 2 of Title VIII of the Milpitas Municipal Code is hereby amended to read as follows:

VIII-2-5.48 - Discharge Reports

- (a) Dischargers are subject to the reporting requirements as contained in Title 40 of the Code of Federal Regulations. The City Engineer 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.
- (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 for a zero discharge user shall certify that the user does not discharge any process water to sanitary sewer. The zero discharge report for a zero discharge categorical user shall certify that the 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. All zero discharge reports 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 Engineer 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 waste even though they may not normally be discharged.
- (e) In addition to discharge reports, the City Engineer 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 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 San Jose Director of Environmental Services 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 8. SEVERABILITY

In the event any section or portion of this Ordinance shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

SECTION 9. EFFECTIVE DATE AND POSTING

In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its passage. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance