

(O-2001-55)

ORDINANCE NUMBER O- 18880 (NEW SERIES)

ADOPTED ON NOV 14 2000

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER VI, ARTICLE 4 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 64.0200, 64.0301, 64.0303, 64.0500, 64.0501, 64.0502, 64.0509, 64.0510, 64.0511 AND 64.0512; AND ADDING SECTION 64.0520; ALL RELATING TO THE INDUSTRIAL SEWAGE PRETREATMENT PROGRAM.

WHEREAS, under the Clean Water Act, the City of San Diego must comply with federal regulations in its industrial pretreatment program; and

WHEREAS, the following amendments to the Municipal Code will bring the City into compliance with such regulations; NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter VI, Article 4, Division 2, of the San Diego Municipal Code is hereby amended by amending Section 64.0200 as follows:

**Section 64.0200 Definitions**

Unless otherwise defined herein, terms relating to water and wastewater shall be as adopted in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation. Terms related to Industrial Wastewater and to General Provisions when applied in relation to industrial wastewater shall have the same meaning as set forth in the Code of Federal Regulations [C.F.R.] at 40 C.F.R. 401.11 and 403.3.

The meaning of other various terms as used in this ordinance shall be as follows:

- (a) "Act" means the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., 86 Stat. 816, Pub. L. 92-500.
- (b) "Applicant" means any person, firm or corporation who applies for connections to a public sewer.
- (c) "BMP" or Best Management Practice" means any procedure or measure designed to reduce, eliminate, or control the generation or discharge of pollutants in lieu of a numeric limit.
- (d) "C.F.R." means the Code of Federal Regulations.
- (e) "Discharger" means any person that discharges or causes a discharge of wastewater directly or indirectly to a public sewer.
- (f) "Discharge Authorization" means any written authorization granted by the City Manager authorizing the discharge of Industrial Wastewater to the public sewer that is not an Industrial User Discharge Permit.
- (g) "Domestic Wastewater" means the liquid and waterborne wastes derived from the ordinary living processes in a dwelling unit, said wastes being of such character as to permit satisfactory disposal, without special treatment, into a public sewer or by means of a private disposal system.
- (h) "EPA" means the United States Environmental Protection Agency.
- (i) "Industrial Wastewater" means all wastewater, excluding domestic wastewater, and shall include all wastewater from any producing, manufacturing, processing, institutional, commercial, service, agricultural, or other operation. These may also include wastes of human origin similar to domestic wastewater.

(j) "Industrial User" means a discharger of Industrial Wastewater to a Public Sewer.

(k) "Interference" means a Discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

(1) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

(2) therefore is a cause of a violation of any requirement of the POTW's National Pollutant Discharge Elimination System [NPDES] permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act [SWDA] (including title II, more commonly referred to as the Resource Conservation and Recovery Act [RCRA], and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

(l) "Local Limit" means a limit established by the POTW to implement the general and specific prohibitions set forth at San Diego Municipal Code section 64.0512. Such limits shall be technically based and shall require EPA approval prior to implementation.

(m) "Mass Emission Rate" means the weight of material discharged to a public sewer during a given time interval.

(n) "National Pretreatment Standard," "Categorical Pretreatment Standard," "Federal Pretreatment Standard Pretreatment Standard," or "Standard" means the regulations set forth in the Code of Federal Regulations at 40 C.F.R Chapter I, Subchapter N, parts 405 -499, containing pollutant discharge limits promulgated by the EPA, which apply to Industrial Users. This term includes prohibitive discharge limits established pursuant to 40 C.F.R. 403.5 and San Diego Municipal Code section 64.0200(k).

(o) "New Source" has the same meaning as in 40 C.F.R. 403.3 (k)(1).

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

(q) "Process wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

(r) "Publicly Owned Treatment Works" or POTW means treatment works as defined by section 212 of the Act, which is owned by a State or municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant.

The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

(s) "POTW Treatment Plant" means that portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

(t) "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 C.F.R. 403.6 (d).

Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 C.F.R. 403.6(e).

(u) "Pretreatment requirement" means any substantive or procedural requirement related to Pretreatment, other than a National Pretreatment Standard, imposed on an Industrial User.

(v) "Significant Industrial User" means:

(i) All industrial users subject to Categorical Pretreatment Standards under 40 C.F.R. 403.6 and 40 C.F.R chapter I, subchapter N; and

(ii) Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Control Authority as defined in 40 C.F.R. 03.12 (a) on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 C.F.R. 403.8(f)(6)).

(w) "Significant Non-Compliance" or "SNC" has the same meaning as in 40 C.F.R. 403.8(f)(2)(vii).

Section 2. That Chapter VI, Article 4, Division 3, of the San Diego Municipal Code is hereby amended by amending Section 64.0301 and Section 64.0303 as follows:

**Section 64.0301 Penalties for Violations**

(a) - (e) No change.

(f) Civil Penalties - Procedures. Any person who violates any provision of this division or permit condition or requirement or who discharges wastewater which causes pollution, or who violates any cease and desist order, prohibition, effluent limitation, national pretreatment standard, or Administrative Order shall be liable civilly for a penalty not to exceed \$2,500 per day per violation. Such civil penalty shall be assessed and collected in accordance with the procedures set forth in San Diego Municipal Code sections 12.0801-12.0810.

(g) Criminal Penalties. Any person who intentionally violates any provision of this ordinance or permit condition or requirement or who discharges wastewater which causes pollution or who violates any cease and desist order, prohibition, effluent limitation, national pretreatment standard, or Administrative Order shall be liable, upon conviction, for a sum not to exceed \$25,000 per day per violation, or for imprisonment for not more than one year, or both.

### Section 64.0303 Inspection and Sampling

Adequate identification shall be provided by the City Manager for all inspectors and other authorized personnel and those persons shall identify themselves when entering any property for inspection purposes or when inspecting the work of any contractor. Inspection and sampling of every facility that is involved directly or indirectly with the discharge of wastewater to the City's wastewater system may be made by the City Manager as he deems necessary. These facilities shall include but not be limited to sewers, wastewater pumping stations, pollution control plants, all industrial processes, food establishment facilities or other facilities which discharge grease and oil at levels which cause blockages to the sewer, industrial wastewater generation, conveyance and pretreatment facilities, and all similar wastewater facilities. Inspections may be made to determine that such facilities are maintained and operated properly and are adequate to meet the provisions of this ordinance. Access to all of the above facilities or to other facilities directly or indirectly connected to the City's wastewater system shall be given to authorized personnel of the City at all reasonable times including those occasioned by emergency conditions.

Any permanent or temporary obstruction to easy access to the wastewater facility to be inspected shall promptly be removed by the facility user or owner at the written or verbal request of the City Manager and shall not be replaced. It is unlawful to interfere with, delay, resist or refuse entrance to an authorized City inspector attempting to inspect any wastewater generation, conveyance or treatment facility connected directly or indirectly to the City's wastewater system. The City, through its representatives or inspectors, shall have the right to inspect and copy pertinent records relating to a permittee's wastewater discharge or pretreatment operations including, but not limited to: Operations & Maintenance procedures; sampling, analysis, and flow measurement procedures, results and records; inventories, chemical usage, materials sources, hazardous materials manifests, and disposal records; treatment and operations log books; and materials invoices.

Section 3. That Chapter VI, Article 4, Division 5, of the San Diego Municipal Code is hereby amended by amending Sections 64.0500, 64.0501, 64.0502, 64.0509, 64.0510, 64.0511, and 64.0512, as follows:

**Section 64.0500 Waste Disposal - Permit Required**

Any person, municipality, sanitation district, or governmental agency desiring to discharge industrial waste into a public sewer, which may interfere with the operation and maintenance of the sewer system or with the wastewater treatment facilities, shall obtain a permit to discharge wastes into the system from the City Manager known as a Permit for Industrial Wastewater Discharge. These wastes will include all wastewater discharges which are required to be regulated by federal laws or regulations, State of California mandates, or local ordinances.



**Section 64.0501 Permit for Industrial Wastewater Discharge**

The Permit for Industrial Wastewater Discharge or Discharge Authorization shall require compliance with applicable National Pretreatment Standards and requirements, State discharge requirements, and local limits and requirements. It may also require pretreatment of industrial wastewaters before discharge, restriction of peak flow discharges, discharge of certain wastewaters only to specified sewers of the City, relocation of point of discharge, prohibition of discharge of certain wastewater components, restriction of discharge to certain hours of the day, payment of additional charges to defray increased costs of the City created by the wastewater discharge, and such other conditions as may be required to effectuate the purpose of this ordinance. It is unlawful to discharge industrial wastewaters in excess of the quantity or quality limitations set by the Permit for Industrial Wastewater Discharge or Discharge Authorization. Any person desiring to discharge wastewaters or use facilities which are not in conformance with the Industrial Wastewater Discharge Permit or Discharge Authorization shall apply to the City Manager for an amended Permit or Authorization.

**Section 64.0502 Discharge Reports, Procedures, and Certifications**

The City may require that any person discharging or proposing to discharge wastewater into a public sewer file reports, procedures, or certifications, including, but not limited to, the following:

(a) One Time or Periodic Industrial Wastewater Discharge Permit Application:

The application may require information including, but not be limited to, the nature of production and pretreatment processes, wastewater discharge volumes and rates of flow, mass emission rates, production quantities, hours of operation, certification of compliance with applicable regulations, or other information which relates to the generation of waste, including wastewater constituents and characteristics in the wastewater discharge. Such applications may also require the chemical constituents and quantity of liquid or gaseous materials stored on site even though they may not normally be discharged.

(b) One Time or Periodic Reports on Continued Compliance: Permits may establish one time or periodic sampling and analysis requirements or certification requirements or both for specified wastestreams, discharge points, and requirements.

(c) Baseline Monitoring Reports: Within 180 days after the effective date of a categorical Pretreatment Standard, or 180 days after the final administrative decision made upon a category determination submission under 40 C.F.R. 403.6(a)(4), whichever is later, existing Industrial Users subject to such categorical Pretreatment Standards and currently discharging to or scheduled to discharge to a POTW shall submit to the City Manager a report which contains the information listed in 40 C.F.R. 403.12 paragraphs (b)(1)-(7). At least ninety days prior to commencement of discharge, New Sources, and sources that become Industrial Users subsequent to the promulgation of an applicable categorical Pretreatment Standard, shall be required to submit to the City Manager a report which contains the information listed in 40 C.F.R. 403.12 paragraphs (b)(1)-(5). New sources shall also be required to include in this report information on the method

of pretreatment the source intends to use to meet applicable pretreatment standards. New Sources shall give estimates of the information requested in 40 C.F.R. 403.12 paragraphs (b) (4) and (5).

(d) Notification of Changed Discharge: All Industrial Users shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the Industrial User has submitted initial notification under 40 C.F.R. 403.12(p).

(e) The Industrial User shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R. part 261. Such notification must satisfy the requirements set forth at 40 C.F.R. 403.12(p).

(f) In addition to the foregoing, the Industrial User shall provide all applicable reports described in the Code of Federal Regulations at 40 C.F.R. 403.12, including, but not limited to: compliance schedules for meeting categorical Pretreatment Standards, compliance schedule progress reports, reports on compliance with categorical pretreatment standard deadlines, and final compliance reports.

(g) Signatory requirements: Signatory requirements for Industrial User Reports set forth at 40 C.F.R. 403.12(l) are incorporated herein by reference, and shall apply to all Permit Applications, Baseline Monitoring Reports, Reports on Compliance with Categorical Pretreatment Standard Deadlines, and Periodic Reports on Continued Compliance submitted to the City Manager.

(h) Certification Requirements: Any person signing Industrial User Discharge reports submitted pursuant to Section 64.0502 shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(i) Confidentiality Claims: Any information submitted to the City Manager pursuant to Section 64.0502, or obtained during Industrial Wastewater Control Program inspection activities may be claimed as confidential by the Industrial User. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions, or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information, or, in the case of inspections, by submitting a written confidentiality claim at the time of the inspection identifying the inspection areas and type of information for which the claim is asserted. If no claim is made at the time of submission or inspection, the City Manager may make the information available to the public without further notice. When requested and demonstrated by the Industrial User that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made

available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the Clean Water Act, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 C.F.R. 2.302 will not be recognized as confidential information and will be available to the public without restriction.

#### **Section 64.0509 Sampling, Self-Monitoring and Flows**

The City Manager shall require the permittee to provide results of periodic measurements of its discharge which is to include chemical analyses and flow. The City Manager may require a monitoring facility to be furnished and operated at permittee's expenses. All permittees making periodic measurements shall furnish and install at an appropriate location, a calibrated flume, weir, flow meter or similar device suitable to measure flow rate and total volume approved by the City Manager. In lieu of wastewater flow measurement, the City Manager may accept records of water usage and adjust the flow volume by suitable factors to determine peak and average flow rates for the specific industrial wastewater discharge. The monitoring facility should normally be situated on the permittee's premises, but the City Manager may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City Manager's requirements and shall be completed within ninety days following written notification by the City Manager, unless a time extension is granted by the City Manager. Those permittees

required by the City Manager to make periodic measurements of industrial wastewater flows and constituents shall annually make the minimum number of such measurements as required in the permit. When required by the City Manager, permittees shall install and maintain in proper order automatic flow-proportional sampling equipment and/or automatic analysis and recording equipment. Permittees shall allow the City or its representative ready access at all reasonable times to all parts of the premises for purposes of sampling or in the performance of any of their duties. The City Manager shall have the right to set up on the permittee's property such devices as are necessary to conduct sampling or metering operations. Where a permittee has security measures in force, the permittee shall make the necessary arrangements with their security guards so that upon presentation of suitable identification, personnel of the City shall be permitted to enter without delay. All sampling, analysis and flow measurement procedures, equipment, results and records shall be subject at any time to inspection by the City Manager. All sampling and analysis for the purposes of providing pollutant discharge information to the City Manager in self-monitoring and other reports shall be performed in accordance with the techniques prescribed in the Code of Federal Regulations at 40 C.F.R. Part 136 and amendments thereto. Where 40 C.F.R. Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA Administrator determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other parties, approved by the EPA Administrator.

## Section 64.0510 Pretreatment

Permittees shall make wastewater acceptable under the limitations established herein before discharging to any public sewer. Any facilities required to pretreat wastewater to a level acceptable to the City Manager shall be provided and maintained at the permittee's sole expense. Detailed plans, compliance schedules, and operating procedures shall be submitted to the City Manager for review and shall be approved by the City Manager before construction of the facility. The review of such plans and operating procedures will in no way relieve the permittee from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City Manager under the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the City Manager. No permittee shall increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with any local, state, or federal discharge standard. The City Manager shall have the authority in negotiation with any industrial permittee, to impose compliance schedules relating to installation of specific pretreatment equipment, filing of reports, and achievement of specific discharge conditions including, but not limited to, concentration-based, production-based, or mass-based National Pretreatment Standards set forth at 40 C.F.R. Chapter I, Subchapter N, Parts 405 - 499, and incorporated herein by reference, and local limits and requirements developed to implement the General and Specific Prohibitions set forth in San Diego Municipal Code section 64.0512.

**Section 64.0511 Protection from Slug Discharges**

(a) Each permittee shall provide protection from slug discharges of prohibited materials or other substances regulated by this ordinance. For the purposes of Section 64.0511, a slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge. Facilities to prevent slug discharges of prohibited materials shall be provided and maintained at the permittee's own cost and expense.

(b) The City Manager, may, upon making a determination that the potential for a slug discharge of harmful or prohibited materials exists, require that a permittee develop and implement a Slug Discharge Control Plan, which satisfies the minimum requirements established at 40 C.F.R. Part 403.8(v)(A), (B), (C), and (D).

(c) In the case of an accidental or unauthorized non-customary batch discharge, it is the responsibility of the permittee to immediately notify the City Manager of the incident. The notification shall include location of discharge, type of waste, concentration and volume and corrective actions. Within five days following an accidental or unauthorized non-customary batch discharge, the permittee shall submit to the City Manager a detailed written report describing the cause of the discharge and the measures to be taken by the permittee to prevent similar future occurrences. Such notification shall not relieve the permittee of any expense, loss, damages, or other liability which may be incurred as a result of damage to the wastewater systems, fish kills, or any other damage to persons or property, nor shall such notification relieve the permittee of any fines, civil penalties, or other liability which may be imposed by this ordinance or other applicable law. A notice shall be



permanently posted on the permittee's bulletin board or other prominent place advising employees who to call in the event of an accidental or unauthorized non-customary batch discharge. Permittees shall insure that all employees who may cause, allow, or observe such an accidental or unauthorized non-customary batch discharge to occur are advised of the emergency notification procedures.

**Section 64.0512 Prohibited Discharges and Local Limits**

(a) No change.

(b) Specific Prohibitions. In addition, it is unlawful to introduce the following pollutants into a public sewer which directly or indirectly connects to the City's wastewater system:

(1) - (7) No change.

(8) Fats, oils, and greases of animal or vegetable origin in a concentration that exceeds 500 mg/L.

(9) - (18) No change.

(19) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

The Industrial Wastewater Control Program shall develop, apply, and enforce specific limits or Best Management Practice Requirements as necessary to implement the prohibitions listed in Section 64.0512(a) and Section 64.0512(b); such limits shall be termed "Local Limits." Where specific prohibitions or local limits are developed by the POTW, such limits shall be deemed and enforceable as Pretreatment Standards.

Section 4. That Chapter VI, Article 4, Division 5, of the San Diego Municipal Code is hereby amended by adding Section 64.0520, as follows:

**Section 64.0520 Publication of Industrial Users in Significant Noncompliance**


The City Manager shall publish annually, in the largest daily newspaper published in San Diego, a list of the users which, during the previous calendar year, were in significant noncompliance [SNC] with applicable pretreatment standards and requirements.

Section 5. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 6. That this ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By

  
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Ted Bromfield  
Senior Deputy City Attorney

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