

ORDINANCE NO. 2010-18

AMENDING CHAPTER 7.38, "SANITARY SEWER USE,"
OF THE SAN MATEO MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF SAN MATEO ORDAINS AS
FOLLOWS:

Section 1. Section 7.38.020, "Purpose," of the San Mateo Municipal Code is amended to read:

7.38.020 PURPOSE. (a) This Chapter sets forth uniform requirements for users of the wastewater collection, treatment, and disposal facilities operated and administered by the City of San Mateo (City) and Estero Municipal Improvement District (District), and enables the City to comply with all applicable Federal and State laws, including the Clean Water Act (33 United States Code 1251 et seq.), the General Pretreatment Regulations (Code of Federal Regulations (CFR) Title 40 Part 403), and waste discharge requirements of the California Regional Water Quality Control Board for the San Francisco Bay Region.

(b) The specific purpose of this Chapter is to prevent the discharge of any pollutant into the sanitary sewer system, which would 1) obstruct or damage the collection system; 2) interfere with, inhibit or disrupt wastewater treatment processes or operations, or limit sludge reuse or disposal options; 3) pass through the treatment system and contribute to violations of the regulatory requirements placed upon the City of San Mateo Wastewater Treatment Plant (WWTP); or 4) result in or threaten harm to human health or the environment. It is the intent of the City to update and modify this Chapter as needed to continue to provide an industrial waste pretreatment program that is approved by federal and state regulatory agencies.

Section 2. In Section 7.38.030, "Definitions," of the San Mateo Municipal Code, the definition of "authorized enforcement official" is amended to read:

"Authorized enforcement official" means the City Manager or his/her designee that are authorized to enforce the provisions of this Chapter.

Section 3. Section 7.38.060, "Fees and Charges," of the San Mateo Municipal Code is amended to read:

7.38.060 FEES AND CHARGES. (a) The City may adopt reasonable fees and charges to recover costs of carrying out the provisions of this Chapter, including, but not limited to, fees and charges for waste discharge permit applications and permits, monitoring and inspection, pollutant loading, hydraulic loading, compliance actions, filing of appeals, special uses, and other charges deemed necessary to carry out the requirements herein.

Said fees shall relate solely to the matters covered by this Chapter and are separate from all other fees, charges, fines, and penalties which may be levied by the City.

(b) All such fees and charges shall be adopted by resolution or other means as approved by the City, as applicable. The Director shall be responsible for collection of said fees and charges.

Section 4. Section 7.38.150, “Discharge of Groundwater,” Subsection (c), of the San Mateo Municipal Code is amended to read:

(c) Groundwater sources may include but are not limited to (1) construction site dewatering where soil or groundwater contamination is present, (2) groundwater contaminated with organic solvents generated as a result of pump tests in preparation for a groundwater cleanup or water generated during sampling events, (3) aqueous wastes generated by either permanent or mobile hazardous waste treatment units used to treat hazardous waste at the generator’s site, (4) and aqueous wastes generated as a result of site cleanup activities. A permit must be obtained prior to commencement of discharge, and request for such permits shall be submitted not less than 30 working days prior to intended discharge.

Section 5. Subsection (b)(2) of Section 7.38.155 (b)(2) of the San Mateo Municipal Code is amended to read: “The discharge of the water shall not create a public nuisance;”

Section 6. Section 7.38.180, “Damage to Facilities,” of the San Mateo Municipal Code is amended to read:

7.38.180 DAMAGE TO FACILITIES. When a user's discharge causes an obstruction, damage, or any other impairment to the POTW or causes a violation of the NPDES permit, the City may impose a charge upon the user to reimburse the City or District for the cost of cleaning and/or repair of City or District facilities, including mitigation of waste discharge to the storm drainage system.

Section 7. Section 7.38.240, “Permit Terms, Conditions, and Requirements,” Subsection (d), of the San Mateo Municipal Code is amended to read:

(d) If a current permit holder wishes to continue to discharge after the expiration date of the permit, an application to reissue the permit must be filed by the user not less than 30 days prior to the expiration date. Except as provided in subpart (e) of this section, a user that continues to discharge the regulated waste stream after the permit expires is in violation of this chapter.

Section 8. Section 7.38.330, “Sampling and Testing Requirements,” of the San Mateo Municipal Code is amended to read:

7.38.330 SAMPLING AND TESTING REQUIREMENTS. (a) Pollutant analyses, including sampling techniques, to be conducted as part of any monitoring requirement of a waste discharge permit or other formal directive shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in the pretreatment regulations. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses shall be performed in accordance with procedures approved by the U.S. Environmental Protection Agency.

(b) All samples shall be representative of the waste being analyzed.

(c) Samples shall be analyzed by a laboratory accredited by the California Department of Health Services for such analysis.

(d) All analytical data and flow monitoring records shall include the date, exact location, method, and time of sampling, and the name of the person(s) taking the samples; the dates that the analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses.

(e) Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director. Where time-proportional composite sampling or grab sampling is authorized by the Director, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the Industrial User file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: For cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil & grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Director, as appropriate.

(f) For sampling required in support of baseline monitoring and 90-day compliance reports, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Director may authorize a lower minimum. For other required reports the Director shall require the number of grab samples necessary to assess and assure compliance by Industrial Users with Applicable Pretreatment Standards and Requirements.

Section 9. Section 7.38.360, "Self-Monitoring Requirements," Subsection (c), of the San Mateo Municipal Code is amended to read:

(c) If sampling performed by the user indicates a violation, the user shall notify the Director as soon as possible but no later than within twenty-four (24) hours of the user's knowledge of the violation. The user shall repeat the sampling and analysis and report the results to the Director within thirty (30) days after becoming aware of the violation. Where the Director has performed the sampling and analysis in lieu of the User, the Director must perform the repeat sampling and analysis unless it notifies the User of the

violation and requires the User to perform the repeat analysis. The user is not required to resample if the Director samples between the user's initial sampling and the user's receipt of the sampling results.

Section 10. A subsection (f) is added to Section 7.38.360, "Self-Monitoring Requirements," of the San Mateo Municipal Code to read:

(f) If a User subject to the reporting requirements monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Director, using the procedures prescribed in this section, the results of this monitoring shall be included in the report.

Section 11. Section 7.38.410, "Appeals and Hearing Procedures," of the San Mateo Municipal Code is amended to read:

7.38.410 APPEALS AND HEARING PROCEDURES. (a) Any person dissatisfied with the decision of the Director to issue, deny, condition, amend, suspend, revoke, or modify any permit pursuant to this chapter may file a written appeal to the City of San Mateo Public Works Commission.

(b) The appeal shall be filed with the Public Works secretary, who shall set the hearing for the next regularly scheduled meeting of the Public Works Commission. The appeal shall designate with particularity the decision, action or determination appealed from and the remedy or relief sought by way of the appeal. If an appeal is not filed within such period, applicant shall be barred for a period of six months from date of the original application from making further application with reference to the same matter.

(c) At the hearing, the commission shall receive all evidence offered by applicant and the City, and may hear other evidence with reference thereto, and may continue such hearing from time to time.

(d) At the conclusion of such hearing, the commission shall make its findings thereon. If it finds that the initial decision, action or determination that is appealed from is consistent with the provisions and policies of this chapter and is not otherwise injurious to the public health, safety or welfare, or the environment, then the appeal shall be denied. If it finds that the initial decision, action or determination is either inconsistent with the provisions and policies of this chapter or is otherwise injurious to the public health, safety or welfare, or the environment, then the commission may sustain the appeal and in its decision grant any remedy or relief sought by the appellant, or such other relief as it deems appropriate, that is consistent with the provisions and policies of this Chapter. The decision of the commission may be appealed to the City Council by any interested person by filing an application with the City Clerk's Office, including any required fees, within 10 calendar days of the decision. The decision of the council shall be final and conclusive.

Section 12. Section 7.38.430, “Access to Sanitary Sewer System,” of the San Mateo Municipal Code is amended to read:

7.38.430 ACCESS TO SANITARY SEWER SYSTEM. (a) When installing a lateral sewer connection from a building to the main sewer, the property owner shall install a cleanout near the property line or sewer easement in accordance with the City standard for sewer lateral installation on file with the City. The City will maintain laterals in the public right-of-way only when a cleanout has been installed in accordance with the City standard, and is kept accessible by the property owner.

(b) When a sewer line or manhole exists within a sewer, public utility, or right-of-way easement across private property, the owner of the private property shall provide unobstructed access to the sewer line and manhole.

(c) It is unlawful for any person to obstruct cover, or alter any sewer manhole in the City without the written permission of the City.

Section 13 . Section 7.38.440, “Compliance with Chapter,” of the San Mateo Municipal Code is amended to read:

7.38.440 COMPLIANCE WITH CHAPTER. (a) Failure to comply with terms, conditions, or requirements of a waste discharge permit, or other provisions of this chapter, shall constitute a violation this Chapter.

(b) The omission to act by the Director and/or the failure of the Director to take cognizance of the nature of the operation of the user and/or the properties of the user's discharge shall not relieve the user of the responsibility to comply with the provisions of this Chapter. It is the responsibility of the user to make determinations as to the nature of its operation and waste discharge characteristics and to take such actions as may be required under this Chapter prior to any discharge into any sanitary sewer system, whether or not the user has been informed by the Director of the requirements which may apply to the user regarding its discharge.

(c) Liability for damages as a result of any discharges in violation of this Chapter shall be the responsibility of the person(s) causing or responsible for the discharge, and such persons shall defend, indemnify, and hold harmless the City in any administrative or judicial enforcement action relating to such discharges.

Section 14. Section 7.38.450, “Remedies Nonexclusive,” of the San Mateo Municipal Code is amended to read:

7.38.450 REMEDIES NONEXCLUSIVE. Enforcement remedies provided for in this Chapter are not exclusive. The City may take all, or any combination of, these actions against a noncompliant user, as well as any other enforcement remedies which the City may have available, including, but not limited to, the remedies set forth in Government Code sections 54725-54740.6.

Section 15. Subsections (b) and (d) of Section 7.38.460, “Administrative Remedies,” are amended to read:

(b) Administrative Compliance Order. Whenever an authorized enforcement official finds that a discharge to the sanitary sewer system is taking place or threatening to take place in violation of any provision of this Chapter or a permit or order issued hereunder, the authorized enforcement official may require the person to submit for approval of the authorized enforcement official, with such modifications as the authorized enforcement official deems necessary, a detailed compliance schedule that the person shall take in order to correct said violation(s), or prevent future recurrences of said violation(s). A compliance order does not relieve the person of liability for any violation, including any continuing violation.

(d) Administrative Citation. An authorized enforcement official may serve an administrative citation on any person who has violated, or continues to violate, any provision of this Chapter. Each day on which each instance of noncompliance shall occur or continue shall be deemed a separate and distinct violation. Procedures for application of administrative citations shall be in accordance with Chapter 1.10 of the San Mateo Municipal Code.

Section 16. Subsection (a) of Section 7.38.470, “Violations Deemed a Public Nuisance,” of the San Mateo Municipal Code is amended to read:

(a) Any condition caused or permitted to exist in violation of any of the provisions of this Chapter is a threat to the public health, safety and welfare, or the environment, and is declared and deemed a nuisance, and may be summarily abated and/or restored by the City, and/or civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken by the City attorney.

Section 17. Section 7.38.470, “Violations Deemed a Public Nuisance,” of the San Mateo Municipal Code is by deleting Subsection (c).

Section 18. Section 7.38.485, “Injunctive Relief,” of the San Mateo Municipal Code is amended to read:

7.38.485 INJUNCTIVE RELIEF. When the Director finds that a user has violated, or continues to violate, any provision of this Chapter, or waste discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Director may, through the attorney of the City, petition the Superior Court for the County of San Mateo for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the waste discharge permit, order, or other requirement imposed by this Chapter on activities of the user. The Director may also seek such other action as is appropriate for legal and/or equitable relief. A petition for

injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against the user.

Section 19. Section 7.38.490, “Criminal Penalties,” of the San Mateo Municipal Code is amended to read:

7.38.490 CRIMINAL PENALTIES. Any person who intentionally or negligently makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this Chapter, or waste discharge permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Chapter, or who willfully or negligently introduces any substance into the sanitary sewer system which causes personal injury or property damage or environmental harm shall, upon conviction, be guilty of a misdemeanor. Any penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

Section 20. Section 7.38.500, “California Code of Civil Procedure Section 1094.6,” of the San Mateo Municipal Code is amended to read:

7.38.500 CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 1094.6. The provisions of Section 1094.6 of the California Code of Civil Procedure are applicable to judicial review of City decisions pursuant to this Chapter.

Section 21. Section 7.38.510, “Emergency Termination of Service,” of the San Mateo Municipal Code is amended to read:

7.38.510 EMERGENCY TERMINATION OF SERVICE. The City reserves the right to terminate sewer service for noncompliance with the provisions of this Chapter which reasonably appear to present an imminent endangerment to health, safety, and welfare of persons, or to the environment. The user shall immediately cease discharge of any waste presenting such a hazard, upon verbal and/or written notice of the Director or his/her designated representative. Such termination shall be effective immediately, but shall be reviewed pursuant to the hearing process provided by the City. The Director shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Director that the period of endangerment has passed, and provisions have been made to prevent future occurrences of actual or threatened discharges which may result in endangerment to individuals, the environment, damage to facilities, or NPDES permit violations.

Section 22. PUBLICATION. This Ordinance shall be published in summary in the Examiner Peninsula Edition, posted in the City Clerk’s Office, and posted on the City’s website, all in accord with Section 2.15 of the Charter and shall be effective 30 days after the date of adoption.

Section 23. ENVIRONMENTAL REVIEW (CEQA). Pursuant to Public Resources Code section 21065 and California Environmental Quality Act Guidelines (CEQA) section 15061, subsection (b)(1) and (3), the ordinance revisions taken together do not constitute a project as the revisions will not have a significant effect on the environment. If it were a project, the proposed ordinance would be exempt pursuant to Public Resources code section 21080(b)(15) (action taken by a local agency to implement a state-imposed rule or regulation) and CEQA Guidelines section 15308 (actions by regulatory agencies for protection of the environment).

Section 24. SEVERABILITY. In the event any section, clause or provision of this Chapter shall be determined invalid or unconstitutional, such section, clause or provision shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

I hereby certify this to be a correct copy of Ordinance 2010-18 of the City of San Mateo, California, introduced on November 15, 2010 and adopted on December 6, 2010, by the following vote of the Council:

AYES: Council Members LIM, MATTHEWS, ROSS and LEE

NOES: NONE

ABSENT: NONE

ABSTAINED: GROTTÉ

(SEAL) /s/ NORMA GOMEZ, City Clerk