

Element 3 - Legal Authority

SWB Requirements:

Each Enrollee must demonstrate, through sanitary sewer system use ordinances, service agreements, or other legally binding procedures, that it possesses the necessary legal authority to:

- a. Prevent illicit discharges into its sanitary sewer system (examples may include I/I, stormwater, chemical dumping, unauthorized debris and cut roots, etc.);*
- b. Require that sewers and connections be properly designed and constructed;*
- c. Ensure access for maintenance, inspection, or repairs for portions of the lateral owned or maintained by the Public Agency;*
- d. Limit the discharge of fats, oils, and grease and other debris that may cause blockages, and*
- e. Enforce any violation of its sewer ordinances.*

RWB Requirements:

Each wastewater collection system agency shall, at a minimum, describe its legal authority, through sewer use ordinances, services agreements, or other legally binding procedures to:

- Control infiltration/inflow (I/I) from satellite wastewater collection systems and laterals*
- Require proper design and construction of new and rehabilitated sewers and connections*
- Require proper installation, testing, and inspection of new and rehabilitated sewers*

The City's legal authority to prevent illicit discharges into the collection system, require proper design and construction of sewers and connections, and require proper installation, testing, and inspection of sewers is provided by the City's Ordinance Title 15 and Title 17. The specific sections applicable to the requirements of the Sewer System Management Plan (SSMP) are outlined below.

3.1 Prevent Illicit Discharges

The City has specific legal mechanisms to prevent illicit discharges, including fats, oils, greases, and infiltration/inflow into the wastewater collection system as follows:

15.48.020 General discharge prohibitions.

- A. No user shall contribute or cause to be contributed any pollutant or wastewater which will pass through the city's facilities or cause or contribute to interference with the operation of performance of the city's facilities. Any violation of the terms of this part, local limits or a wastewater discharge permit is prohibited and shall constitute interference. This prohibition includes any type of pollutants or wastewater as set forth in the prohibition sections of this part. These general prohibitions apply to all users of the city's facilities whether or not the user is subject to national pretreatment standards or any other national, state, or local pretreatment standards or requirements.*
- B. A user shall not introduce into the POTW any of the pollutant(s) which cause:*
 - 1. A violation of the POTW's NPDES permit or a deterioration of water quality in the receiving stream; or a violation of the POTW's general water reuse permit;*
 - 2. Pass through or interference;*
 - 3. Restrict sludge disposal options or cause a violation of sludge disposal regulations;*

4. *Endanger the health and safety of the POTW collection systems employees, POTW employees or the general public.*
- C. *Affirmative Defenses. A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions established in 40 CFR 403.5(b)(4) if the user can demonstrate that both of the conditions below from 40 CFR 403.5(a)(2) are met:*
 1. *User did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass through or interference.*
 2. *Directly prior to and during the pass through or interference, the user was in compliance with the existing limits for each pollutant in its discharge, or if there were no such existing limits, the user's discharge directly prior to and during the violation did not change substantially in nature or constituents from the user's prior discharge activity when the city was regularly in compliance with its NPDES permit requirements, and with other applicable requirements for POTW operations including sewage sludge use and disposal.*
(Ord. 2282 NCS §3 (part), 2007.)

15.48.030 Specific discharge prohibitions.

In addition, a user shall not introduce any of the following pollutants into the POTW:

- A. *High Temperature. Heat in amounts which may inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds forty degrees centigrade (one hundred four degrees Fahrenheit) unless the approval authority, upon request of the POTW, approves alternate temperature limits.*
- B. *Pollutants which cause corrosive structural damage to the POTW, but in no case discharges with a pH lower than 5.0 or higher than 10.5, or having a pH which will cause damage to the collection system or interfere with POTW treatment processes.*
- C. *Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than one hundred forty degrees Fahrenheit or sixty degrees centigrade using the test methods specified in 40 CFR 261.21. Any liquids, solids or gases which by reason of their nature or quantity are or may be sufficient either alone or by interaction with other substances to cause a fire or explosion or endanger public safety or interfere with the operation of the POTW. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the sanitary sewer (or at any point in the system), be more than five percent or any single reading over ten percent of the lower explosive limit (L.E.L.) of the meter, or have a closed-cup flash point of less than one hundred forty degrees Fahrenheit or sixty degrees centigrade using the test methods specified in 40 CFR 261.21. Prohibited materials include but are not limited to gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the city, the state and EPA has identified as a fire hazard or a hazard to the system.*
- D. *Obstruction of Flow. Solids or viscous pollutants in amounts which will cause obstruction to the flow in a community sewer or in the POTW resulting in interference. Items such as but not limited to grease, garbage with particles greater than one-half inch (one and twenty-seven hundredths centimeters) in any dimension, animal guts or tissues, paunch manure, bones, hair, hides, fleshing, entrails, whole blood, feathers, ashes, cinders, wax, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, tar, asphalt residues, residues from refining or processing of fuel or lubrication oil, mud or glass grinding or polishing wastes.*
- E. *Toxic Pollutants. Any wastewater containing toxic pollutants in sufficient quantity, either singly or in interaction with other pollutants, that would pass through or cause interference with the wastewater treatment process, or constitute a hazard to human, animal or plant life, including*

- aquatic organisms, or create any hazards in the waters receiving the wastewater treatment plant effluent. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act and the California Toxics Rule. Compounds specifically prohibited include any polychlorinated biphenyl (PCB), any pesticide (including any insecticides, herbicides, or fungicides) such as but not limited to chlordane, heptachlor, heptachlor epoxide, aldrin, dieldrin, dichlorodiphenyl trichloro ethane (DDT), dichloro-diphenyldichloro ethene (DDE), and rothane (DPD).
- F. *Noxious or Malodorous Substances.* Any harmful or offensive gases or solids which either singly or by interaction with other wastes are sufficient to violate or have the potential to cause violations of air quality standards at the POTW or in community sewers, create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair. Any volatile organic pollutant in such concentration that it has the potential to cause the headspace gases to exceed a three hundred hexane equivalent level over equilibrated wastewater or exceed toxicity discharge screening levels based on fume toxicity.
 - G. *Disposal/Reclamation.* Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause a violation of the criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state or local criteria applicable to the sludge disposal.
 - H. *POTW Violation.* Any pollutant including oxygen demanding pollutants (BOD, etc.) causing the POTW to violate or continue to violate its NPDES permit. This includes but is not limited to slug discharges, oxygen demanding pollutants (BOD or COD), suspended solids, pH, heavy metals, oil and greases or toxic organic compounds; released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.
 - I. *Detrimental Environmental Impact.* Any substance which may have a harmful environmental impact or create a nuisance in the waters of the state or a condition which violates the rules and regulations of any public agency having regulatory jurisdiction over the city, including but not limited to any statute or any rule, regulation, or requirement of any public agency or state or federal regulatory body.
 - J. *Discoloration.* Any wastewater creating discoloration or any other condition in the quality of the POTW effluent such that receiving water quality requirements established by law cannot be met.
 - K. *Hazard or Public Nuisance.* Any waste which, as determined by the city, may have an adverse or harmful effect on sewer, maintenance personnel, wastewater treatment plant personnel or equipment, treatment plant effluent quality, public or private property or may otherwise endanger the public, the local environment or create a public nuisance. The city shall, in determining the acceptability of specific wastes, consider the nature of the waste and the adequacy of the collection, treatment and disposal system available to accept the waste.
 - L. *Excessive Flow.* Total quantities of flow or instantaneous peaks which due to volume or manner of delivery require a disproportionate share of the city's treatment plant capacity. This also includes flows which, alone or in combination with others, cause excessive treatment costs and/or treatment plant process upsets.
 - M. *Radioactive Wastes.* No user shall, and it shall be unlawful to, discharge, cause to be discharged, or permit to be discharged, any radioactive waste into the sanitary sewer, except:
 - 1. Users authorized to use radioactive materials by the State Department of Health or other governmental agency empowered to regulate the use of radioactive materials may discharge, cause to be discharged, permit to be discharged such wastes; provided, that such wastes are discharged in strict conformance with the current State of California Code of Regulations Title 17 and federal regulations and recommendations for safe disposal of such wastes as they now exist or may hereafter be amended.

2. *The user so acting does so in compliance with all applicable rules and regulations of all other regulatory agencies having jurisdiction over such discharges.*
- N. *Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.*
- O. *Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.*
- P. *Any trucked or hauled pollutants, except at discharge points designated by the POTW.*
- Q. *Any sewage not amenable to treatment as this term is defined herein with the use of the facilities and treatment processes employed by the city at the time of the discharge.*
(Ord. 2282 NCS §3 (part), 2007.)

15.48.060 Prohibition of storm drainage and ground water.

Stormwater, ground water, rain water, street drainage, subsurface drainage or yard drainage shall not be discharged through direct or indirect connections to the sanitary sewer. The city may approve the discharge of such water only when no reasonable alternative method of disposal is available. If a permit is granted for the discharge of such water into the sanitary sewer, the user shall pay the applicable user charges and fees and meet such other conditions as required by the city. (Ord. 2282 NCS §3 (part), 2007.)

15.48.070 Prohibition on unpolluted water.

Unpolluted water including but not limited to cooling water, process water or blow-down from cooling towers or evaporative coolers shall not be discharged through direct or indirect connection to a city sewer unless a permit is issued. The city may approve the discharge of such only when no reasonable alternative is available.

If a permit is granted for the discharge of such water into a community sewer, the user shall pay the applicable charges and fees and shall meet such other conditions as required by the city. (Ord. 2282 NCS §3 (part), 2007.)

15.48.090 Limitations on point of discharge.

No user shall discharge any substance directly into a manhole, clean out or other opening in a sanitary sewer other than through an approved building sewer, unless upon written application by the user and payment of the applicable user charges and fees, the city issues a permit for such direct discharges.

No person shall discharge any holding tank wastes, or wastes from barrels, storage tanks or any other such containers not directly connected to the city sewer unless the user has obtained a special discharge permit. Unless otherwise allowed by the city, under the terms and conditions of the special discharge permit, a separate permit must be secured for each separate discharge. The user may be required to sample, analyze and report to the city the characteristics of the waste, prior to the issuance of the permit. The permit may stipulate the specific location of the discharge, the time of day the discharge is to occur, limits of the volume discharged and the constituents and characteristics of the waste. The user shall pay all applicable charges and fees and shall meet such other conditions as required by the city. (Ord. 2282 NCS §3 (part), 2007.)

3.2 Require Proper Design, Construction, Testing, and Inspection

The City has specific legal mechanisms to require proper design, construction, testing, and inspection of new and rehabilitated sewers and connections as follows:

15.40.010 Size of sanitary sewer lines.

Sanitary sewer lines and lines proposed for construction by individuals or groups shall be of the size necessary to handle sewage from the entire area contributory to the line when that area is developed to ultimate population density, as determined by the city. (Ord. 2282 NCS §3 (part), 2007.)

15.40.060 Applicant to pay cost of construction of sewer laterals.

All sewer laterals shall be constructed at the sole cost of the applicant. All sewer laterals are owned by the property owner to the sewer main and through the city right-of-way including the connection at the main. All sewer laterals shall be maintained by the property owner to prevent inflow and infiltration. (Ord. 2282 NCS §3 (part), 2007.)

17.04.010 Adoption of Uniform Codes.

Pursuant to Section 50022.2 of the California Government Code, the following codes are adopted by reference, including the amendments listed in this chapter, which are made pursuant to the findings of fact set forth in the adopting ordinance:

- A. Part 1—2007 California Administrative Code;*
- B. Part 2—2007 California Building Code based on the 2006 International Building Code, including Appendix Chapters 1 (Administration), J (Grading) amended by deleting J103.2 Exception 1, H (Signs) and I (Patio Covers) except as amended in Section 17.04.020;*
- C. Part 3—2007 California Electrical Code based on the 2005 National Electrical Code;*
- D. Part 4—2007 California Mechanical Code based on the 2006 Uniform Mechanical Code including Appendix Chapter 1 (Administration) and Appendix Chapter A (Code Standard 6-2);*
- E. Part 5—2007 California Plumbing Code based on the 2006 Uniform Plumbing Code including Appendix Chapter 1 (Administration);*
- F. Part 6—2007 California Energy Code;*
- G. Part 8—2007 California Historical Building Code;*
- H. Part 10—2007 California Existing Building Code based on the 2006 International Existing Building Code;*
- I. Part 12—2007 California Referenced Standards Code, International Property Maintenance Code;*
- J. 2006 Edition, 1997 Uniform Housing Code; and*
- K. 1997 Uniform Code for Abatement of Dangerous Buildings.*

3.4 Access

The City has the necessary legal authority to gain access to portions of the wastewater collection system requiring maintenance, inspection or repair as follows:

15.60.050 Inspection and sampling.

- A. The city or designee may carry out all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by the industrial users, compliance or noncompliance with applicable pretreatment standards, state regulations, and local regulations by industrial users. Persons or occupants of premises where wastewater is created or discharged shall allow the city or the city's designee(s) ready access at all times to all parts of the premises where pollutants are stored, used, treated or disposed of for the purpose of inspection, sampling, records examination, records copying or in the performance of any of their duties. No person shall interfere with, delay, resist or refuse entrance to an authorized designee attempting to inspect any wastewater generation, conveyance or treatment facility connected directly or indirectly to the city's sewerage system.*

Where the user has security measures in force which would require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its

- security guards, so that upon presentation of suitable identification, personnel from the city will be permitted to enter without delay for the purpose of performing their specific responsibilities.
- B. The city and approval authority shall have the right to set up on the user's property such devices as are necessary to conduct sampling or metering operations and has the right to require installation of permanent monitoring equipment.
 - C. The city and approval authority shall have the right to evaluate each permitted industrial user for the need of a slug control plan. The plan, if required, shall contain, at a minimum, the elements specified in 40 CFR 403.8(f)(2)(v).
(Ord. 2282 NCS §3 (part), 2007.)

15.68.030 Emergency correction.

In the event clean-up, repairs, construction, or other public work is performed on any premises pursuant to any provision of law relating to the emergency pursuant to any other provision of law authorizing public work on private property in order to correct, eliminate or abate a condition upon such premises which threatens to cause, causes, or has caused a violation of any provisions of these regulations, or any permit issued pursuant to these regulations, or of any other requirement of law, the user responsible for the occurrence or condition giving rise to such work, the occupant and the owner of the premises shall be liable jointly and severally to the city for such public expenditures including overhead costs. (Ord. 2282 NCS §3 (part), 2007.)

3.4 Enforcement

The City possesses the necessary legal authority to enforce violations of its sewer ordinance. Specific mechanisms are detailed in the City Code of Petaluma, some examples are as follows:

15.68.010 Harmful contributions.

The city may suspend the wastewater treatment service and/or a wastewater discharge permit when such suspension is necessary, in the opinion of the city, in order to stop an actual or threatened discharge which presents or may present, alone or in contribution with other discharges, an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference, or causes the city to violate any condition of its NPDES permit, or the general water reuse permit, sludge disposal regulations or air quality standards. The city may deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by industrial users where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate its NPDES permit in accordance with 40 CFR 403.8(f)(1)(i), or the general water reuse permit, sludge disposal regulations or air quality standards.

Any person notified of a suspension of the wastewater treatment service and/or the wastewater discharge permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the city shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize the threat of interference or damage to the community sewers or POTW or the endangerment to any individuals. The city shall reinstate the wastewater discharge permit and/or the wastewater treatment service upon proof of the elimination of the noncompliant discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the city within five days of the date of occurrence. (Ord. 2282 NCS §3 (part), 2007.)

15.68.020 Remedies for noncompliance.

- A. *Issuance of Cease and Desist. When the city finds that a discharge of wastewater has taken place or is likely to take place in violation of these regulations, or the provisions of a wastewater*

discharge permit, the city may issue an order to cease and desist such discharge, or practice, or operation likely to cause such discharge and direct those persons not complying with such prohibitions, limits, requirements, or provisions to:

- 1. Comply forthwith.*
 - 2. Comply in accordance with a time schedule set forth by the city; or*
 - 3. Take appropriate remedial or preventive action.*
- B. Seek Injunctive Relief. Whenever a user has violated or continues to violate the provisions of this part or permit or order issued hereunder, the city through counsel may petition the court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the industrial user.*
- C. Consent Order. The city is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the user responsible for the noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to subsection (D) of this section, Compliance Order.*
- D. Compliance Order. When the city finds that a discharge of wastewater is taking place, has been taking place or threatens to take place, in violation of prohibitions or limitations prescribed in this part, effluent limitations or pretreatment standards, or the provisions of a wastewater discharge permit, the city may, at the city's discretion, issue a compliance order requiring the user to submit for approval, with such modification as the city deems necessary, a detailed time schedule of specific actions which the user shall take in order to prevent or correct a violation of these regulations, or of any permit issued pursuant to these regulations, and to take such action in accordance with such schedule.*

Nothing provided in this section shall limit or prohibit the city from pursuing any other remedy, legal or equitable, otherwise available to the city, or from seeking sanctions in any administrative, criminal or civil action related to such discharge or potential discharge.

- E. Administrative Fines/Civil Penalties.*
- 1. When the city finds that a user has violated, or continues to violate, any provision of Chapters 15.44 through 15.76, a sewer use permit or order issued hereunder, or any other pretreatment standard or requirement, the city may proceed with issuing a civil administrative complaint setting forth the violations and the administrative penalty to be imposed, which shall be in an amount not less than that set forth in the enforcement response plan. The city shall proceed in a manner consistent with the procedures set forth in Government Code Section 54740.5.*
 - 2. The administrative complaint shall be served by personal delivery or certified mail upon the user and shall inform the user that a hearing shall be conducted within sixty days unless waived by user or an alternative date is set by stipulation. If after a hearing a person is dissatisfied with the decision of the hearing officer they may appeal to the city council by filing a written request for an appeal within thirty days of the notice of the hearing officer's decision.*
 - 3. Civil penalties may be imposed by the city pursuant to this administrative complaint process as follows:*
 - a. In an amount which shall not exceed two thousand dollars (two thousand dollars for each day for failing or refusing to furnish technical or monitoring reports).*
 - b. In an amount which shall not exceed three thousand dollars (three thousand dollars for each day for failing or refusing to timely comply with any compliance schedule established by the city).*
 - c. In an amount which shall not exceed five thousand dollars per violation for each day for discharges in violation of any waste discharge limitation, permit condition, or requirement issued, reissued or adopted by the city.*

- d. *In an amount which shall not exceed ten dollars per gallon for discharges in violation of any suspension, cease and desist order or orders or prohibitions issued, reissued or adopted by the city.*
 - e. *The amount of any civil penalties imposed under this administrative complaint procedure which remain delinquent for a period of sixty days shall constitute a lien against the real property of the discharger consistent with the terms of Government Code Sections 54740.5 and 54740.6.*
 4. *In fixing the amount of the civil administrative penalty pursuant to this section, the city shall take into account all relevant circumstances including but not limited to the extent of harm caused by the violation, the economic benefit derived through any noncompliance, the nature and persistence of the violation, the length of time over which the violation occurs and corrective action, if any, attempted or taken by the discharger.*
 5. *Procedures set forth in California Government Code Sections 54725 through 54740.6 shall control with regard to the city's enforcement through this civil administrative penalty process, whether or not the procedures are specifically set forth in this part. To the extent that the procedures set forth in Government Code Sections 54725 through 54740.6 are inconsistent with other enforcement procedures of the city generally found in Chapters 1.10 through 1.15 of the city code, the procedures set forth in Government Code Sections 54725 through 54740.6 shall apply to the extent the city is proceeding with civil administrative penalties pursuant to this section or seeks civil penalties pursuant to Section 54740 of the California Government Code as set forth in subsection (F) of this section.*
 6. *Issuance of an administrative complaint seeking penalties shall not be a bar against, or a prerequisite for, taking any other action against the user.*
 - F. *Civil Penalties. Any person who without regard to intent or negligence violates any provisions of these regulations, or of any provisions of any permit issued pursuant to these regulations, or whose discharges cause interference, pass through, contamination, nuisance, pollution, or who violates any order, termination of service prohibition, effluent limitation, national standard of performance or national pretreatment or toxicity standard or requirement, shall be civilly liable to the city in a sum not to exceed twenty-five thousand dollars for each day in which the violation occurs for as long as the violation continues. In addition to the above described civil penalties, the city may recover actual costs and damages incurred and reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses. The city may petition the superior court to impose, assess and collect such sums pursuant to this chapter and California Government Code Section 54740, et seq. In determining amount of liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the industrial user's violation, corrective actions by the industrial user, the compliance history of the user, and any other factor as justice requires.*
 - G. *Criminal Penalties. Any person who intentionally or negligently violates any provision of this part, or of any permit issued pursuant to these provisions, or who discharges wastewater which causes interference, pass through, pollution or who violates any order, prohibition, effluent limitation, national standard of performance, pretreatment or toxicity standard shall be liable, upon conviction thereof, of a misdemeanor, with a maximum fine of one thousand dollars or imprisonment for not more than six months in the county jail or both, for each violation. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this part (Chapters 15.44 through 15.76) is committed or permitted by such person.*
- (Ord. 2282 NCS §3 (part), 2007.)