

ORDINANCE NO. 2322, NEW SERIES

AN ORDINANCE OF THE CITY OF MORGAN HILL AMENDING CHAPTER 13.20 ("SEWERS AND INDUSTRIAL WASTE") OF TITLE 13 ("PUBLIC SERVICES") TO REQUIRE THE INSPECTION AND REPAIR OF PRIVATE SEWER LATERALS AND PRIVATE SANITARY SEWER COLLECTION SYSTEMS

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY
ORDAIN AS FOLLOWS:

Section 1. Section 13.20.030 (Definitions) of Chapter 13.20 (Sewers and Industrial Waste) of Title 13 (Public Services) is hereby amended to read as follows:

13.20.030 Definitions

For the purpose of this chapter, the following words shall have the meanings set forth below:

1. "Act" or "the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.
2. "Categorical standards" means National Categorical Pretreatment Standards or Pretreatment Standard.
3. "City certified contractor" means a contractor that is certified by an accredited agency along with the City of Morgan Hill to perform inspection and repair on private sewer lateral and sanitary sewer collection system.
4. "Common interest development" means a development managed or governed by a homeowners' association. Examples of common interest developments may include condominium projects (in which the individual units are owned), planned unit developments, community apartment projects (in which the individual units are leased to tenants), and stock cooperatives.
5. "Domestic waste" means a combination of liquid or water carrying human or kitchen waste conducted away from residential, business or institutional buildings.
6. "Environmental Protection Agency" or "EPA" means the U.S. Environmental Protection Agency; or, where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of said agency.
7. "Garbage," "refuse" and all other terms used in this chapter shall have the same meaning given to them in Ordinance No. 129, New Series.
8. "Homeowners' association" means a nonprofit corporation or unincorporated association created for the purpose of managing or governing a common interest development and that operates in accordance with governing documents, whether or not the corporation or association is formally designated or commonly referred to as a homeowners' association.

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9. "Industrial waste" means a combination of liquid or water-carried waste resulting from the processes employed in commercial or industrial establishments, including the washing, cleaning or drain water from such processes.
10. "Inspector" means the authorized inspector or representative of the city engineer.
11. "Interceptor" means a device used to separate and retain from waste, deleterious or undesirable matter, including grease and sand.
12. "National Categorical Pretreatment Standard" or "pretreatment standard" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.
13. "National Prohibitive Discharge Standard" or "prohibitive discharge standard" means any regulation developed under the authority of Section 307(b) of the Act and 40 Codified Federal Regulations (CFR), Section 403.5.
14. "New source" means any source, the construction of which is commenced after the publication of proposed regulations prescribing a Section 307 (c) (33 U.S.C. 1317) Categorical Pretreatment Standard.
15. "Permittee" means the person to whom a permit has been issued pursuant to this chapter.
16. "Person" means an individual, firm, partnership, corporation, or government agency, and their heirs, assigns or agents.
17. "Pretreatment" or "standard" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutants' properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a publicly-owned treatment works (POTW). The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes other means, except as prohibited by 40 CFR Section 403.6(d).
18. "Pretreatment requirements" means any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.
19. "Private sanitary sewer collection system" shall mean any sanitary sewer pipe originating or located at least partially on a common interest development collecting wastewater from more than one building sanitary sewer, including but not limited to: apartment buildings, business complexes, mobile home parks, condominiums, or townhomes. This excludes single-family residential property with an accessory dwelling unit.
20. "Private sewer lateral" means the sewer pipeline from the plumbing of a building to a public sewer collection line, including portions that extend across public rights-of-way and the Saddle, wye or other physical connection to the collection line. Private sewer laterals are privately owned and maintained.
21. "Public sewer" means a main or collector sanitary sewer dedicated to public use.
22. "Qualified Contractor" means, for the purposes of private sewer lateral inspection or repair and private sanitary sewer collection system inspection or repair, a licensed plumbing contractor with a City of Morgan Hill business license and an active pipeline or lateral assessment certification from the National Association of Sewer Service Companies.

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23. "Sale of property" means a change in ownership by purchase or otherwise involving a transfer of legal title to real property, except for any transfer excluded from property tax reassessment by Revenue and Taxation Code Section 60 et seq. and/or as determined by the Santa Clara County assessor. "Significant industrial user" means any industrial user of the city's wastewater disposal system who (a) has a discharge flow of ten thousand gallons or more per average workday; or (b) has a flow greater than five percent of the flow in the city's wastewater treatment system; or (c) has wastes which are toxic pollutants as defined pursuant to Section 307 of the Act or State of California Statutes and rules; or (d) is found by the city, state control agency or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the system."

Section 2. Section 13.20.070 (Property owner's ownership and obligation to inspect, maintain, repair, and replace private sewer laterals) of Chapter 13.20 (Sewers and Industrial Waste) of Title 13 (Public Services) is hereby amended to read as follows:

13.20.070 Property Owner's Ownership and Obligation to Inspect, Maintain, Repair and Replace Private Sewer Laterals

- A. **Private Ownership.** The private sewer laterals are the property of the property owner and are not part of the public sewer system. Nothing in this chapter shall be interpreted as changing the private nature of the private sewer laterals or incorporating them into the public sewer.
- B. **Property Owners' Obligations.** Each property owner shall, at the property owner's expense, inspect, maintain in good working order, repair and replace, as necessary, the private sewer lateral so that it does not cause or contribute to any sewage overflow from either the private sewer lateral or the public sewer. The private sewer lateral shall be free of displaced joints, open joint, root intrusion, substantial deterioration of the line, cracks, leaks, inflow, infiltration of extraneous water, fats, oils and grease, sediment deposit or any other similar conditions, defects or obstructions likely to cause or contribute to blockage of the private sewer lateral or the public sewer.
- C. **Inspection and Repair Prior to Sale of Property.** All residential, commercial, and industrial buildings shall have the private sewer lateral inspected by a Qualified Contractor for any defects and any repairs needed shall be completed prior to the sale of property to meet the city's standards as specified by the City's Private Sewer Lateral and Private Sewer System Inspection Report, unless otherwise specified in this section or exempted under Section 13.20.070(H).
- D. **Responsibilities of Seller.** The seller, prior to the sale of property, shall be responsible for complying with the requirements of this chapter and for obtaining a Compliance Certificate for Private Sewer Lateral before the conclusion of the sale of property, unless otherwise specified in this section.
- E. **Option to Transfer Seller's Responsibility to Buyer.** Before the sale of property, the seller and buyer of any property may mutually agree to transfer responsibility for making any needed repairs to the private sewer lateral in compliance with this chapter to the buyer. In the event the buyer agrees to assume responsibility for repairing the private sewer lateral, the seller shall

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provide proof of inspection of the private sewer lateral to the buyer which indicates the repairs needed to meet the city's standards. The buyer must then complete the repairs to meet the city's standards no later than one hundred eighty calendar days after the date of the sale. Before the time of sale, the seller and buyer shall complete the following procedures:

1. The seller shall have had the private sewer lateral inspected by a Qualified Contractor.
2. Both the seller and buyer must sign a Transfer of Responsibility to Repair Form certifying that the seller has completed an inspection and that the buyer has assumed responsibility for any repairs.
3. The signed Transfer of Responsibility to Repair Form must be submitted to the City before the sale of property and included in the real estate transfer documentation.

F. Verification of Compliance. The seller must verify compliance with this chapter by submitting a completed Private Sewer Lateral and Private Sewer System Inspection Report prior to the sale of the property unless an agreement with the property's buyers has been reached and validated with a Transfer of Responsibility to Repair Form. Once compliance with the requirements of this chapter has been submitted to the City and verified, a Compliance Certificate for Private Sewer Lateral will be issued within five business days. Opening a new water service following the sale of a property will require a Compliance Certificate for Private Sewer Lateral issued within the past ten years, a valid Transfer of Responsibility to Repair Form, or documentation that the private sewer lateral is less than fifteen years old or otherwise exempt from the inspection and repair requirement per Section 13.20.070(H).

G. New Building Connections. Before any new building is connected to an existing private sewer lateral, the property owner must have the private sewer lateral inspected by Qualified Contractor for any defects and any repairs needed must be completed to meet the city's standards to satisfy the requirements of this chapter as a condition passing the final building permit inspection, unless exempted under Section 13.20.070(H).

H. Exempt Properties. A property is exempt from these inspection requirements if any of the following applies and verifiable evidence thereof is submitted to the city's satisfaction:

- a) The transfer of title to real property does not meet the definition of "sale of property" as set forth in Section 13.20.030(22), and is excluded from property tax reassessment by Revenue and Taxation Code Section 60 et seq. and/or as determined by the Santa Clara County assessor.
- b) The private sewer lateral was constructed or completely replaced fifteen years or less prior to the property sale date.
- c) The private sewer lateral was inspected and met city standards less than ten years prior to the property sale date.
- d) The property is a single-family unit connected to a private sanitary sewer collection system subject to Section 13.20.075.

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Section 3. Section 13.20.073 (Inspection and repair of private sanitary sewer collection system) of Chapter 13.20 (Sewers and Industrial Waste) of Title 13 (Public Services) is hereby added in its entirety to read as follows:

13.20.073 Inspection and Repair of Private Sanitary Sewer Collection System

- A. **Private Ownership.** Private sanitary sewer collection systems are the property of a common interest development and are not part of the public sewer. Nothing in this chapter shall be interpreted.
- B. **Property Owners' Obligation.** Owners of private sanitary sewer collection systems, such as multifamily complexes, common interest developments or entities managing a common interest development (such as Homeowner's Association) shall, at the owners' expense, have a Qualified Contractor inspect, maintain in good working order, repair and replace, as necessary, the private sanitary sewer collection system so that it does not cause or contribute to any sewage overflow from either the private sanitary sewer collection system or the public sewer. The private sanitary sewer collection system shall be free of displaced joints, open joint, root intrusion, substantial deterioration of the line, cracks, leaks, inflow, infiltration of extraneous water, fats, oils and grease, sediment deposit or any other similar conditions, defects or obstructions likely to cause or contribute to blockage of the private sanitary sewer collection system or the public sewer.
- C. **Inspection and Repair of Private Sanitary Sewer Collection Systems.** All private sanitary sewer collection systems shall be inspected for any defects and any repairs needed by a Qualified Contractor every two years if the system collects wastewater from ten or more building sanitary sewers, or every five years if the system collects wastewater from less than ten building sanitary sewers, to meet the city's standards as specified by the Private Sewer Lateral and Private Sewer System Inspection Report, unless otherwise specified in this section or is less than fifteen years old.
- D. **Private Sanitary Sewer Collection System Verification of Compliance.** Owners of private sanitary sewer collection systems shall verify compliance with this chapter by submitting a completed City Private Sewer Lateral and Private Sewer System Inspection Report within the time limit specified above. Once compliance with the requirements of this chapter has been verified, a Compliance Certificate for Private Sewer Lateral for the property will be issued within five business days.

Section 4. Section 13.20.076 (Enforcement of private sewer lateral and private sanitary sewer collection system retrofit) of Title 13 (Public Services) is hereby added in its entirety to read as follows:

13.20.076 Enforcement of Private Sewer Lateral and Private Sanitary Sewer Collection System

- A. In addition to the enforcement remedies provided in Title 1 of the Morgan Hill Municipal Code, the City Council finds and declares that instituting additional enforcement remedies specifically applicable to the inspection and repair of private sewer laterals and sanitary sewer collection systems is in the public interest.

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- B. Water and sewer utility service may not be started at a property that has been sold and does not have a valid Compliance Certificate for Private Sewer Lateral or an executed Transfer of Responsibility to Repair Form or is otherwise exempt per Section 13.20.070(H).
- C. To the extent allowed by law, water and sewer utility service may be discontinued to any property at which service was initiated using a Transfer of Responsibility to Repair Form if one hundred eighty days has elapsed since the start of service, and a Compliance Certificate for Private Sewer Lateral has not been submitted to the City.

Section 5. CEQA Exemption

The city finds that this Ordinance and actions taken hereafter pursuant to this Ordinance are exempt from the California Environmental Quality Act per the California Environmental Quality Act Guidelines Section 15307 (protection and preservation of natural resources). The City Clerk is hereby authorized and directed to file a Notice of Exemption as soon as possible following adoption of this Ordinance.

Section 6. Severability

If any section, subsection, sentence, clause or phrase in this Ordinance is for any reason held invalid, the validity of the remainder of the Ordinance will not be affected. The city council hereby declares it would have passed this Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases or is declared invalid.

Section 7. Effective Date; Posting

This Ordinance shall take effect on June 1, 2022. The City Clerk is hereby directed to publish this Ordinance or a summary thereof pursuant to Government Code Section 36933.

THE FOREGOING ORDINANCE WAS INTRODUCED AT A REGULAR MEETING OF THE CITY COUNCIL HELD ON THE 5th DAY OF MAY 2021, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE 2nd DAY OF JUNE 2021, AND SAID ORDINANCE WAS DULY PASSED AND ADOPTED IN ACCORDANCE WITH LAW BY THE FOLLOWING VOTE:

AYES:	COUNCIL MEMBERS:	Gino Borgioli, Rich Constantine, Yvonne Martinez Beltran, John McKay, Rene Spring
NOES:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None

APPROVED:

DocuSigned by:

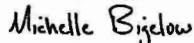
Rich Constantine

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RICH CONSTANTINE, Mayor

ATTEST:

DocuSigned by:

Michelle Bigelow

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MICHELLE BIGELOW, City Clerk

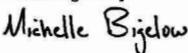
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☒ CERTIFICATE OF THE CITY CLERK ☒

I, MICHELLE BIGELOW, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 2322, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 2nd day of June 2021.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: 6/7/2021

DocuSigned by:

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MICHELLE BIGELOW, City Clerk