

**ORDINANCE NO. 1565**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCATA, ADDING SECTIONS 7472.5(F) AND 7492.6, BYPASS, TO CHAPTER 2, SEWERS, OF TITLE VII, PUBLIC WORKS, OF THE ARCATA MUNICIPAL CODE**

**WHEREAS**, changes were made to the federal General Pretreatment Regulations, 40 C.F.R. Part 403; and

**WHEREAS**, amendments to Chapter 2, Sewers, of Title VII, Public Works, are necessary for the City of Arcata to comply with the changes to the General Pretreatment Regulations.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ARCATA DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** Section 7472.5(F) in Title VII, Public Works, Chapter 2, Sewers, of the Arcata Municipal Code, is hereby amended as follows:

**SEC. 7472.5 Reports of Changed Conditions.**

A. Industrial Users must notify the Director of Environmental Services of any significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater, or changes which may affect its potential for a Slug Discharge at least ninety (90) days before the change.

B. The Director of Environmental Services may require the Industrial User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a Wastewater Discharge Permit application pursuant to Section 7471.5.

C. The Director of Environmental Services may issue a Wastewater Discharge Permit pursuant to Section 7471.2 or modify an existing Wastewater Discharge Permit pursuant to Section 7471.11 in response to changed conditions or anticipated changed conditions.

D. An Industrial User subject to reduced monitoring requirements pursuant to Section 7472.4(B) shall immediately notify the Director of Environmental Services when conditions in Section 7472.4(B)(8) occur.

E. An Industrial User subject to reduced reporting requirements pursuant to Section 7472.4(C) shall immediately notify the Director of Environmental Services of any changes at its facility causing it to no longer meet the conditions for reduced reporting. Upon notification, the Industrial User must immediately begin complying with the minimum reporting requirements in Section 7472.4(A).

F. The Director of Environmental Services 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.

**SECTION 2.** Section 7492.6, Bypass, is hereby added to Title VII, Public Works, Chapter 2, Sewers, of the Arcata Municipal Code, as follows:

**SEC. 7492.6. Bypass.**

A. For the purposes of this Section,

1. Bypass means the intentional diversion of waste streams from any portion of a User's treatment facility.

2. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

B. A User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this Section.

C. Bypass Notifications.

1. If a User knows in advance of the need for a bypass, it shall submit prior notice to the Director of Environmental Services, at least ten (10) days before the date of the bypass, if possible.

2. A User shall submit oral notice to the Director of Environmental Services of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Director of Environmental Services may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

D. Bypass

1. Bypass is prohibited, and the Director of Environmental Services may take an enforcement action against a User for a bypass, unless

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance

during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The User submitted notices as required under paragraph (C) of this section.

2. The Director of Environmental Services may approve an anticipated bypass, after considering its adverse effects, if the Director of Environmental Services determines that it will meet the three conditions listed in paragraph (D)(1) of this Section.

**SECTION 3. SEVERABILITY.** If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance. The Council hereby declares that it would have adopted the ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

**SECTION 4. EFFECTIVE DATE.** This ordinance shall become effective thirty (30) days from and after its final passage, provided it is published pursuant to Government Code section 36933 in a newspaper of general circulation within fifteen (15) days after its adoption.

**DATE:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
City Clerk, City of Arcata

\_\_\_\_\_  
Mayor, City of Arcata

**CLERK’S CERTIFICATE**

I hereby certify that the foregoing is a true and correct copy of Ordinance No. 1565, passed and adopted at a regular meeting of the City Council of the City of Arcata, Humboldt County, California, held on the \_\_\_\_ day of \_\_\_\_\_, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

\_\_\_\_\_  
City Clerk, City of Arcata