

ITEM 4.3

**CITY MANAGER'S REPORT
OCTOBER 12, 2020 CITY COUNCIL REGULAR MEETING**

ITEM: **SECOND READING AND ADOPTION OF ORDINANCE 20-415 BY TITLE ONLY ADDING SECTION 13.26.170 DENTAL AMALGAM-MERCURY SOURCE CONTROL PROGRAM TO CHAPTER 13.26 SEWER USE AND INDUSTRIAL WASTEWATER REGULATIONS OF THE CITY OF LATHROP MUNICIPAL CODE**

RECOMMENDATION: **Waive Full Reading and Adopt Ordinance 20-415 By Title Only Adding Section 13.26.170 Dental Amalgam-Mercury Source Control Program to Chapter 13.26 Sewer Use and Industrial Wastewater Regulations of the City of Lathrop Municipal Code**

RECOMMENDED ACTION:

The City Council to conduct second reading and adopt Ordinance 20-415 entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LATHROP TO CONSIDER AN ORDINANCE ADDING SECTION 13.26.170 DENTAL AMALGAM-MERCURY SOURCE CONTROL PROGRAM TO CHAPTER 13.26 SEWER USE AND INDUSTRIAL WASTEWATER REGULATIONS

SUMMARY:

On September 14, 2020, the City Council approved the introduction and first reading of the subject Ordinance by the following vote:

AYES: Akinjo, Lazard, Torres-O'Callaghan, and Salcedo
NOES: None
ABSTAIN: None
ABSENT: Dhaliwal

The Ordinance will take effect 30 days after adoption.

SUBMITTED BY:



Teresa Vargas, City Clerk

10/7/2020

Date

ORDINANCE NO. 20-415

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LATHROP TO CONSIDER AN ORDINANCE ADDING SECTION 13.26.170 DENTAL AMALGAM-MERCURY SOURCE CONTROL PROGRAM TO CHAPTER 13.26 SEWER USE AND INDUSTRIAL WASTEWATER REGULATIONS

WHEREAS, Chapter 13.26 Sewer Use and Industrial Wastewater Regulations of the City of Lathrop Municipal Code was adopted to set forth uniform requirements for users of the publicly owned treatment works for the City of Lathrop and enables the City to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code § 1251 et seq.); and

WHEREAS, the United States Environmental Protection Agency (EPA) promulgated pretreatment standards under the Clean Water Act to reduce discharge of mercury from dental offices into publicly owned treatment works (POTW) like City of Lathrop's Consolidated Treatment Facility and the Manteca Water Quality Control Facility; and

WHEREAS, the final rule requires dental offices to use amalgam separators and two Best Management Practices recommended by the American Dental Association (ADA); and

WHEREAS, nationwide, the EPA expects compliance with this new rule to reduce mercury discharged to POTWs by 5.1 tons as well as 5.3 tons of other metals found in waste dental amalgam; and

WHEREAS, the addition of Section 13.26.170 Dental Amalgam-Mercury Source Control Program to update Lathrop's Chapter 13.26 Sewer Use and Industrial Wastewater Regulations is needed to ensure compliance with the new EPA regulations.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LATHROP DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Section 13.26.170 is added to the Lathrop Municipal Code to read in full as follows:

13.26.170 Dental amalgam-mercury source control program.

A. Best Management Practices. All owners and operators of dental facilities that remove or replace amalgam fillings shall comply with the following best management practices:

1. No person shall rinse chairside traps, vacuum screens, or amalgam separators equipment in a sink or other connection to the sanitary sewer.

2. Owners and operators of dental facilities shall ensure that all staff members who handle amalgam waste are trained in the proper handling, management, and disposal of mercury-containing material and fixer-containing solutions, and shall maintain training records that shall be available for inspection by city environmental compliance staff during normal business hours.
3. Amalgam waste shall be stored and managed in accordance with the instructions of the recycler or hauler of such materials.
4. Dental unit water lines, chair-side traps, and vacuum lines that discharge amalgam process wastewater to a POTW must not be cleaned with oxidizing or acidic cleaners, including, but not limited to, bleach, chlorine, iodine, and peroxide that have a pH lower than 6 or greater than 8.
5. The use of bulk mercury is prohibited. Only precapsulated dental amalgam is permitted.

B. Amalgam Separators.

1. All existing dental facilities must install, operate, and maintain one or more amalgam separators or amalgam removal devices that meet the following requirements to remove dental amalgam solids from all amalgam process wastewater:
 - a. Compliant with either the American National Standard Institute (ANSI), American National Standards/American Dental Association (ADA) Specifications 108 for Amalgam Separators (2009) with Technical Addendum (2011) or the International Organization for Standardization (ISO) 11143 Standard (2008) or subsequent versions so long as that version requires amalgam separators to achieve at least ninety-five percent removal efficiency. Compliance must be assessed by an accredited testing laboratory under ANSI's accreditation program for product certification or a testing laboratory that is a signatory to the International Laboratory Accreditation Cooperation's Mutual Recognition Arrangement. The testing laboratory's scope of accreditation must include ANSI/ADA 108-2009 or ISO 11143.
 - b. The amalgam separator must be sized to accommodate the maximum discharge rate of the amalgam process wastewater.

c. An existing dental facility that operates an amalgam separator(s) that was installed prior to June 14, 2017 satisfies the requirement of this section until the existing separator is replaced or until June 14, 2027, whichever is sooner.

d. In the event that an amalgam separator is not functioning properly, it must be repaired consistent with manufacturer instructions or replaced with a unit that meets the requirements of subsection (B)(1)(a) of this section as soon as possible, but no later than ten business days after the malfunction is discovered by the owner, operator, agent or representative of the dental facilities.

2. As of July 14, 2017, any newly constructed dental facilities must comply with the requirements of subsection (B)(1)(a), (b) and (d) and the reporting and recordkeeping requirement of subsection C.

3. Proof of certification and installation records shall be submitted to the city environmental compliance staff within thirty days of installation.

4. Amalgam separators shall be maintained in accordance with manufacturer recommendations. Installation, certification, and maintenance records shall be available for immediate inspection upon request by the city environmental compliance staff during normal business hours.

C. Reporting and Record Keeping Requirement.

1. One-Time Compliance Report Deadlines. For existing dental facilities, a one-time compliance report must be submitted to city environmental compliance staff no later than October 12, 2020 or ninety days after a transfer of ownership. For newly constructed dental facilities, a one-time compliance report must be submitted to city environmental compliance staff no later than ninety days following the introduction of wastewater into a POTW.

2. Signature and Certification. The one-time compliance report must be signed and certified by a responsible corporate officer, a general partner, or proprietor if the dental facility is a partnership or sole proprietorship, or a duly authorized representative of the dental facility.

3. Contents.

a. The one-time compliance report for dental facilities that do not place or remove dental amalgam must include the facility name, physical address, mailing address, contact information, name(s) of the operator(s) and owner(s); and a certification statement that states that the facility does not practice the placement of dental amalgam and does not remove amalgam.

b. The one-time compliance report for dental facilities subject to the standards of this section must include:

i. The facility name, physical address, mailing address, contact information.

ii. Name of the operator(s) and owner(s).

iii. A description of the operation at the dental facility including: the total number of chairs, the total number of chairs at which dental amalgam may be present and may discharge into the resulting wastewater, and a description of any existing amalgam separator(s) or equivalent device(s) currently operated to include, at a minimum, the make, model and year of installation.

iv. Certification that the amalgam separator(s) or equivalent device is designed and will be operated and maintained to meet the requirements specified in subsection B.

v. Certification that the dental facility is implementing BMPs specified in subsection A and will continue to do so.

vi. The name of the third party service provider that maintains the amalgam separator(s) or equivalent device(s) operated at the dental facility, if applicable. Otherwise, a brief description of the practices employed by the facility to ensure proper operation and maintenance in accordance with subsection B.

4. Transfer of Ownership Notification. If a dental facility transfers ownership of the facility, the new owner must submit a new one-time compliance report to the city environmental compliance staff no later than ninety days after the transfer.

5. Retention Period. As long as a dental facility subject to this section in operation, or until ownership is transferred, the dental facility or the dental discharger or an agent or representative of the dental discharger must maintain the one-time compliance report, installation, certification, maintenance and repair, inspection, waste hauling records shall be retained for a minimum of three years and make them available for inspection in either physical or electronic form.

D. Vacuum Suction Systems Exemption. The following types of vacuum suction systems are exempt from requirements listed under subsection B:

1. The system was installed before 2003.
2. The system is a dry vacuum pump system with an air-water separator.
3. The sedimentation tank is non-bottom draining, with a drain above the anticipated maximum level of accumulated sludge.
4. Evidence of the regular pump outs (a minimum of once a year, or more often if either directed by the manufacturer or necessary to keep solids from exiting through the drain) is maintained and open to inspection by the city during normal business hours.
5. The system has no direct discharge pipe to the sewer on the bottom of the sedimentation tank.

Any owner(s) or operator(s) whose dental facilities meet conditions of subsections (D)(1) through (5) may apply for this exemption by written letters to the city environmental compliance staff. The city environmental compliance staff will review the system and, if the exemption is approved, shall provide a written letter of exemption.

Any exemption obtained pursuant to the section shall expire upon installation of a new vacuum system. Upon expiration of the exemption, the facility shall comply with this section before commencing further operation.

E. Exemptions. The following types of dental practices are exempt from this section, provided that the removal or placement of amalgam fillings occurs at the facility no more than three days per year: (1) orthodontics; (2) periodontics; (3) oral and maxillofacial surgery; (4) oral radiology; (5) oral

pathology or oral medicine; (6) endodontistry and prosthodontistry; (7) mobile units.

Section 2. This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the city or any officer or employee thereof a mandatory duty of care toward persons and property within or without the city so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 3. Severability. If any section, subsequent subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance irrespective of the unconstitutionality or invalidity of any section, subsection, subdivision, paragraph, sentence, clause, or phrase.

Section 4. - Effective Date. This Ordinance shall take legal effect 30 days from and after the date of its passage.

Section 5. - Publication. Within fifteen days of the adoption of this Ordinance, the City Clerk shall cause a copy of this Ordinance, to be published in full accordance with Section 36933 of the Government Code.

THIS ORDINANCE was regularly introduced at a regular meeting of the City Council of the City of Lathrop on the 14th day of September 2020, and was **PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Lathrop on the 12th day of October 2020, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Sonny Dhaliwal, Mayor

ATTEST:

APPROVED AS TO FORM:

Teresa Vargas, City Clerk

Salvador Navarrete, City Attorney

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