

Not Yet Approved

Ordinance No. _____

Ordinance of the Council of the City of Palo Alto
Amending Title 16 of the Palo Alto Municipal Code to
Add a New Chapter 16.66 (Hauled Waste) to Regulate the Discharge of Hauled
Waste at the Palo Alto Regional Water Quality Control Plant (RWQCP)

The Council of the City of Palo Alto ORDAINS as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as follows:

- A. The Palo Alto Regional Water Quality Control Plant (RWQCP) accepts certain hauled wastes from transporters that operate within the areas served by the RWQCP.
- B. Hauled waste can cause adverse impacts to wastewater treatment plants because it is typically more concentrated than domestic wastewater and may not be equalized when discharged.
- C. Adverse impacts may include pass through, interference, sludge contamination, and hazards to personnel at the RWQCP.
- D. To prevent adverse impacts associated with hauled wastes, the City of Palo Alto needs to adequately control the discharge of hauled waste at the RWQCP.
- E. This ordinance revises the hauled waste program by adding new requirements and clarifying existing requirements for the discharge of hauled waste to the RWQCP.

SECTION 2. A new Chapter 16.66 (Hauled Waste) is hereby added to Title 16 of the Palo Alto Municipal Code to read as follows:

Chapter 16.66
Hauled Waste

Sections:

- 16.66.010 Purpose
- 16.66.020 Definitions
- 16.66.030 Responsibility of the Director
- 16.66.040 Discharge of Hauled Waste
- 16.66.050 Waste Monitoring
- 16.66.060 Hauled Liquid Waste Discharge Permit Required
- 16.66.070 Hauled Liquid Waste Discharge Permit Application Procedure
- 16.66.080 Vehicle Identification
- 16.66.090 Reporting Requirements for Waste Haulers
- 16.66.100 Retention of Records

- 16.66.110 Performance Bonds and Other Security for Performance
- 16.66.120 Insurance
- 16.66.130 Hauled Liquid Waste Discharge Permit Modification
- 16.66.140 Hauled Liquid Waste Discharge Permit Suspension or Revocation
- 16.66.150 Hauled Liquid Waste Discharge Permit Issuance, Denial, Modification, Revocation, or Suspension Hearing
- 16.66.160 Forfeiture of Deposit
- 16.66.170 Personnel Orientation
- 16.66.180 Enforcement and Penalties
- 16.66.190 Charges and Fees
- 16.66.200 Closure of Receiving Station

16.66.010 Purpose

The purpose of this Chapter is to regulate the discharge of hauled waste at the Palo Alto Regional Water Quality Control Plant (RWQCP).

16.66.020 Definitions

The following terms and phrases, whenever used in this Chapter, shall be as defined herein.

- (a) "Chemical toilet waste" means human excrement and deodorizers collected from a portable chemical toilet.
- (b) "Cesspool" means a lined or partially lined underground pit into which raw sanitary sewage is discharged.
- (c) "City" means the City of Palo Alto located in the State of California.
- (d) "Director" means the City's director of public works, his or her designee or such other person as may be designated by the city manager.
- (e) "Hauled liquid waste discharge permit" means a permit issued by the Director, used as a control mechanism, which grants revocable permission and authorization to discharge hauled waste to the receiving station.
- (f) "Hazardous material" means any material so designated by Title 17 of this code.
- (g) "Hazardous waste" means a material designated as a hazardous waste by Federal, State, or local regulations.
- (h) "Industrial waste" means the waste or wastewater from any production, manufacturing or processing operation of whatever nature including institutional and commercial. Industrial waste shall not include sewage.

- (i) "Person" means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local government entities.
- (j) "Publicly Owned Treatment Works" or "POTW" means a treatment works, as defined by Section 212 of the Clean Water Act (33 U.S.C. Section 1292), which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.
- (k) "Receiving station" means the location that has been identified by the director as the authorized discharge point for hauled liquid wastes.
- (l) "RWQCP service area" means the cities of Los Altos, Mountain View, and Palo Alto; the town of Los Altos Hills; the East Palo Alto Sanitary District; and the unincorporated area of the County of Santa Clara where the Stanford University campus is located.
- (m) "Seepage pit" means a device comprised of one or more pits extending into porous strata, lined with open-jointed masonry or similar walls, capped and provided with a means of access such as a manhole cover and into which wastewater disposal system effluent is discharged.
- (n) "Septic waste" means sewage collected from a septic tank, seepage pit, cesspool or other similar device.
- (o) "Sewage" means human excrement and gray water (household showers, dishwashing operations, etc.).
- (p) "Waste hauler" means any person engaged in the collection and transport of waste.

16.66.030 Responsibility of the Director

Except as otherwise provided herein, the director shall administer, implement and enforce the provisions of this Chapter. The director shall be responsible for promulgating such orders, rules, regulations and requirements as are necessary to accomplish the purpose of this Chapter. Any powers granted to or duties imposed upon the director may be delegated by the director to a duly authorized City employee.

16.66.040 Discharge of Hauled Waste

- (a) The following hauled liquid wastes may be discharged at the receiving station:

1. Sewage from septic tanks, seepage pits, cesspools and other similar devices; and
 2. Portable toilet pumpings.
- (b) No waste hauler shall introduce or cause to be introduced into the receiving station the following pollutants, substances, or wastewater:
1. Commercial or industrial process wastewater, industrial waste, hazardous materials or hazardous waste;
 2. Stormwater, groundwater or artesian well water;
 3. Wastes from soil boring or construction operations;
 4. Sludge, biosolids or any other solid materials from sewage or water treatment plants;
 5. Any waste prohibited by Section 16.09.040 of this code; or
 6. Any waste collected from any property or location outside the RWQCP service area, unless authorized by the director.

16.66.050 Waste Monitoring

- (a) The director may conduct all inspection, surveillance, sampling and monitoring necessary to assure compliance with applicable Federal, State, and local regulations including this Chapter.
- (b) The City shall have the right by and through its officers, employees or other persons engaged by the City to do so, to take such samples of hauled liquid waste delivered by any person to the receiving station as the City in its sole discretion may deem appropriate to obtain a representative sample of each delivery's contents. Such samples may be taken prior to, during or after any such delivery or discharge. Without being limited thereto, results of analyses made of such samples at the RWQCP laboratory may be used to determine a permittee's compliance with the provisions of this Chapter.
- (c) The director may require a waste hauler to provide a waste analysis of any load prior to discharge.

16.66.060 Hauled Liquid Waste Discharge Permit Required

- (a) No person shall deliver or discharge hauled liquid wastes at the receiving station without first obtaining a hauled liquid waste discharge permit from the director.

- (b) Any violation of the terms and conditions of a hauled liquid waste discharge permit shall be deemed a violation of this Chapter and shall subject the permittee to the enforcement provisions set forth in this Chapter. Obtaining a hauled liquid waste discharge permit from the City does not relieve a permittee of its obligation to comply with all Federal and State waste hauling requirements or with any other applicable provisions of Federal, State and local law.
- (c) No hauled liquid waste discharge permit is transferable without prior written consent of the director. A change of ownership (including a transfer of the majority of shares in a corporate discharger) requires submittal of a new hauled liquid waste discharge permit application and payment of any applicable fees.
- (d) The director may impose terms and conditions or other provisions in hauled liquid waste discharge permits which the director deems reasonable or necessary to carry out the purpose of this Chapter.
- (e) Issuance of a hauled liquid waste discharge permit establishes a conditional privilege to discharge. Issuance of a hauled liquid waste discharge permit does not create property rights, nor does it create a vested irrevocable right or privilege. The director has the right to refuse any hauled waste load.

16.66.070 Hauled Liquid Waste Discharge Permit Application Procedure

- (a) An applicant for a hauled liquid waste discharge permit shall complete and submit a hauled liquid waste discharge permit application established by the director. The director may require information in addition to that required on the hauled liquid waste discharge permit application form as deemed reasonable or necessary to evaluate the hauled liquid discharge permit application.
- (b) Completed hauled liquid waste discharge permit applications shall be filed by the discharger not less than five (5) calendar days in advance of commencing or recommencing discharge. The discharger shall not commence or recommence discharge prior to obtaining a hauled liquid waste discharge permit without specific, interim approval from the director to discharge during the permitting process.
- (c) Any waste hauler with an expiring hauled liquid waste discharge permit shall apply for permit reissuance by submitting a complete hauled liquid waste discharge permit application, in accordance with this Section, not less than thirty (30) calendar days prior to the expiration of the waste hauler's existing hauled liquid waste discharge permit.
- (d) The director may deny any application for a hauled liquid waste discharge permit for good cause, including, but not limited to, the following reasons:
 - 1. The application contains false or misleading information;

2. The application is not accompanied by the required fee(s);
 3. The issuance of the hauled liquid waste discharge permit would result in the discharge of wastes of such quantity or strength that the public health, safety, or public or private property are endangered;
 4. The issuance of the hauled liquid waste discharge permit would cause the City to violate any NPDES permit conditions, or any Federal, State or local laws or regulations;
 5. The applicant has not provided adequate information to establish that its discharge will comply with all requirements of this Chapter and with such other terms and conditions as the director may deem necessary to include in the applicant's hauled liquid waste discharge permit;
 6. The applicant has not provided required cash deposit, or valid corporate surety bonds, insurance policies, endorsements, certificates and/or binders required by Sections 16.66.110 and 16.66.120 of this Chapter; or
 7. The applicant has failed to pay or has outstanding fees, fines, or penalties owed to the City related to activities governed by this Chapter.
- (e) If the director denies the issuance of a hauled liquid waste discharge permit, any application fees paid shall not be returned to the applicant unless the director has ascertained that a hauled liquid waste permit is not required to discharge the waste for which the hauled liquid waste discharge permit application is made.
- (f) Incomplete or inaccurate hauled liquid waste discharge permit applications will not be processed.

16.66.080 Vehicle Identification

Access to and use of the receiving station shall be granted only to vehicles bearing a valid vehicle registration sticker issued by the Santa Clara County Department of Environmental Health displayed on the windshield of the vehicle.

16.66.090 Reporting Requirements for Waste Haulers

- (a) The director may require holders of hauled liquid waste discharge permits to submit reports to demonstrate or document compliance with this Chapter.

- (b) The director may require information on a waste hauler's operations in addition to that required in the hauled liquid waste discharge permit application or other reports to evaluate waste hauler compliance with the provisions of this Chapter.
- (c) The director may establish an electronic submittal program for submission of reports, documents and data and require use thereof by holders of hauled liquid waste discharge permits.
- (d) Waste haulers that send electronic (digital) documents to the director to satisfy the requirements of this Section must meet all Federal, State, and local electronic signature requirements. Electronic data shall be in a format required by the director. The director may require reporting in both digital and traditional format.
- (e) Nothing in an electronic submittal program established by the director limits the use of the electronically submitted reports, documents, or data or any information contained therein as evidence in enforcement proceedings.
- (f) Waste haulers shall comply with all reporting requirements established by the director. A waste hauler's failure to submit required reports, documents or data as required or by the specified submission deadline shall constitute a violation of the provisions of this Chapter. The director may allow submission of required reports, documents and/or data on the following business day in instances where the due date falls on a weekend or legal holiday.

16.66.100 Retention of Records

Waste haulers subject to the reporting requirements of this Chapter shall retain, and make available for inspection and copying without unreasonable delay, all records of information obtained pursuant to this Chapter including, but not limited to, any required monitoring activities, any additional records of information obtained pursuant to monitoring activities undertaken by the discharger independent of such requirements, and documentation associated with BMPs. This includes electronic data and information records maintained and/or submitted in accordance with Section 16.66.090 of this Chapter. All records required to be maintained by this Chapter shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any unresolved litigation concerning the discharger or the City, or where the discharger has been specifically notified of a longer retention period by the director.

16.66.110 Performance Bonds and Other Security for Performance

- (a) No person shall deliver to or discharge hauled liquid wastes at the receiving station unless such person has provided a faithful performance bond in the amount specified by the director payable to the City of Palo Alto naming City as obligee and issued by a surety company or companies acceptable to City and in a form approved by the city

attorney, which surety bond or bonds may be renewed or replaced annually, at his or her sole cost and expense, and shall be kept in full force and effect during the term of the hauled liquid waste discharge permit to ensure faithful performance of all the requirements under this Chapter. In lieu of such surety bond or bonds, such person may deposit with the City a cash deposit, in the amount specified by the director, as security for faithful performance as required by this Section.

- (b) The condition of the bond shall be that the amount thereof shall be paid to the City if permittee engages in any of the acts that could lead to suspension or revocation of the hauled liquid waste discharge permit pursuant to Section 16.66.140 of this Chapter.
- (c) Upon payment of any sum to City of the cash deposit or under such faithful performance bond, the permittee shall immediately furnish and file with City such cash deposit or surety bonds as may again be required by the director.
- (d) No interest shall be paid by City to permittees on any cash deposit or surety bond.
- (e) The remedies providing for satisfaction of the obligations set forth in this Section are cumulative and not exclusive, and are in addition to any other remedies to which the City may be lawfully entitled. Each person shall remain personally liable for any obligation or liability incurred in operations subject to regulation under this Chapter to the extent that the cash deposit or corporate surety bond proceeds are insufficient to satisfy the same.

16.66.120 Insurance

No person shall deliver or discharge hauled liquid wastes at the receiving station unless such person, at his or her sole cost and expense, has and maintains in full force and effect the insurance policies, endorsements, certificates and/or binders required by the City.

16.66.130 Hauled Liquid Waste Discharge Permit Modification

The director may modify any hauled liquid waste discharge permit for good cause, including, but not limited to, the following reasons:

- (a) To incorporate any new or revised Federal, State, or local requirements;
- (b) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (c) Information indicating that the permitted discharge poses a threat to the POTW, City personnel, or the receiving waters;
- (d) Violation of any terms or conditions of the hauled liquid waste discharge permit;

- (e) Misrepresentations or failure to fully disclose all relevant facts in the hauled liquid waste discharge permit application or in any required reporting;
- (f) To correct typographical or other errors in the hauled liquid waste discharge permit;
- (g) To reflect a transfer of the facility ownership or operation to a new owner or operator;
or
- (h) To implement programs or policies required or requested of the City by appropriate Federal, State or local regulatory agencies.

16.66.140 Hauled Liquid Waste Discharge Permit Suspension or Revocation

- (a) The director may deny or suspend the use of the receiving station to any person who fails to comply with the orders, rules, regulations and requirements adopted by the director or the terms and conditions contained in a hauled liquid waste discharge permit.
- (b) The director may suspend or revoke a hauled liquid waste discharge permit indefinitely for good cause, including, but not limited to, the following reasons:
 - 1. Failure to complete a hauled liquid waste discharge permit application;
 - 2. Misrepresentation or failure to fully disclose all relevant facts in the hauled liquid waste discharge permit application;
 - 3. Knowingly or negligently providing false information on any hauled liquid waste discharge permit application, manifest, document, or other record submitted to the RWQCP;
 - 4. Falsifying reports and certification statements;
 - 5. Failure to accurately complete reports or other paperwork required by the director;
 - 6. Tampering with monitoring equipment;
 - 7. Disposal of wastes originating outside the RWQCP service area without prior approval from the director;
 - 8. Disposal of wastes at the receiving station in a manner which causes or threatens to cause undue mess to the receiving station;

9. Disposal of wastes at any location within the RWQCP service area other than the receiving station;
 10. Failure to maintain in full force and effect the cash deposit, corporate surety bonds, insurance policies, endorsements, certificates and/or binders required by Sections 16.66.110 and 16.66.120 of this Chapter;
 11. Failure to pay fees, fines, or penalties;
 12. Failure to maintain a valid Environmental Health permit through the Santa Clara County Department of Environmental Health;
 13. Failure to provide advance notice of the transfer of business ownership;
 14. Violation of any term or condition of the hauled liquid waste discharge permit or any provision of this Chapter; or
 15. Failure of the waste hauler to comply with the waste handling and disposal, and reporting requirements of the Santa Clara County Department of Environmental Health.
- (c) Hauled liquid waste discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All hauled liquid waste discharge permits issued to a discharger are void upon the issuance of a new hauled liquid waste discharge permit to that discharger.

16.66.150 Hauled Liquid Waste Discharge Permit Denial, Modification, Suspension, or Revocation Hearing

- (a) An applicant or permit holder shall have at its request, a hearing before the city manager, or his or her designee, before the applicant's hauled liquid waste discharge permit application is denied, or before modification, subjugation to additional terms and conditions, suspension or revocation of a discharger's discharge permit.
- (b) The director shall give the applicant or permit holder ten (10) calendar days written notice of intent to deny the applicant's discharge permit application or to modify, make subject to additional terms, suspend or revoke a discharger's discharge permit. The notice shall set forth specifically the grounds for the director's intention to deny the applicant's discharge permit application, or to modify, make subject to additional terms, suspend or revoke a discharger's discharge permit and shall inform the applicant or permit holder that they have ten (10) calendar days from the date of receipt of the notice to file a written request for a hearing. The application shall be denied or the permit shall be revoked, modified or suspended if a hearing request is not received within the ten day period.

- (c) If the applicant or permit holder or interested party or parties file(s) a timely hearing request, the city manager, or his or her designee, shall within ten (10) calendar days from the receipt of the request, set a time and place for the hearing. All parties involved shall have the right to offer testimonial, documentary, and tangible evidence bearing on the issues and to be represented by counsel. The decision of the city manager, or designee, whether to deny the applicant's discharge permit application or to modify, make subject to additional terms, suspend or revoke the discharger's discharge permit shall be final.

16.66.160 Forfeiture of Deposit

All of the waste hauler's cash deposit or acceptable security may be forfeited to the City if any of the following occur:

- (a) Misrepresentation or failure to fully disclose all relevant facts in the hauled liquid waste discharge permit application;
- (b) Discharge of any waste which does not comply with the provisions of this Chapter;
- (c) Unlawful disposal of any waste within the RWQCP service area; or
- (d) Failure to pay any outstanding fees, fines or penalties incurred in relation to any provision of this Chapter, a previous hauled liquid waste discharge permit or order issued hereunder.

16.66.170 Personnel Orientation

- (a) Waste haulers shall take necessary steps to inform appropriate personnel of the provisions of this Chapter. Such personnel shall include, but not be limited to, workers, contractors, supervisors, and managers whose duties or responsibilities pertain in any manner to the production, treatment, transport or disposal of wastes regulated by this Chapter.
- (b) Steps to inform such personnel shall include, but not be limited to:
 1. Orientation of newly employed or assigned personnel prior to commencement of work and at least annually thereafter;
 2. Training on standard operating procedures (SOP) developed by the waste hauler at their expense to ensure it operations are compliant with the provisions of this Chapter; and

3. Inclusion of SOPs and other materials readily available in each vehicle delivering or discharging waste at the receiving station.
- (c) All SOPs, documents and other materials shall be translated into the primary language(s) of personnel whose duties or responsibilities pertain in any manner to the production, treatment, transport or disposal of wastes regulated by this Chapter, unless the primary language of all personnel is English.

16.66.180 Enforcement and Penalties

- (a) Warning. When the director finds that a user has violated, or continues to violate, any provision of this Chapter or a hauled liquid waste discharge permit, the director may issue verbal or written warnings in response to minor violations of this Chapter. Compliance with warnings does not limit further enforcement action by the City.
- (b) Administrative citation. When the director finds that a user has violated, or continues to violate, any provision of this Chapter or a hauled liquid waste discharge permit, the director may issue an administrative citation in accordance with the provisions contained in Chapter 1.12 of this code. Issuance of an administrative citation shall not be a bar against, or a prerequisite for, taking any other action against the person.
- (c) Emergency suspension. The director may immediately suspend any discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health, safety or welfare of persons. The director may also immediately suspend a discharger's discharge that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment. Any discharger notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a discharger's failure to immediately comply voluntarily with the suspension order, the director may take such steps as deemed necessary to prevent or minimize damage to the POTW or endangerment to any persons. The director may allow the discharger to recommence its discharge when the discharger has demonstrated to the satisfaction of the director that the period of endangerment has passed.
- (d) Civil penalties.
1. Any person who has violated, or continues to violate any provision of this Chapter or a hauled liquid waste discharge permit shall be liable to the City for a maximum civil penalty of up to twenty-five thousand dollars (\$25,000) per day for each day in which such violation occurs.
 2. The City may petition the Superior Court of California pursuant to Government Code Section 54740 to recover the sums in subsection (d)(1) of this Section as well as reasonable attorneys' fees, court costs, and other expenses associated

with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.

3. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a discharger.
- (e) Criminal penalties. As provided in Chapter 1.08 of this code, violations of the provisions of this Chapter shall be subject to criminal penalties.
- (f) Remedies nonexclusive. The remedies provided for in this Chapter are cumulative and not exclusive, and shall be in addition to the provisions of Chapters 1.08, 1.12, and 1.16 of this code, and all other remedies available to the City under Federal, State or local law. The director may take any, all, or any combination of these actions against a noncompliant discharger. The director is empowered to take more than one enforcement action against any noncompliant discharger. Enforcement actions may be taken concurrently.

16.66.190 Charges and Fees

- (a) The City shall require payment for treatment and disposal costs of hauled liquid wastes in accordance with City of Palo Alto Utilities Rate Schedule S-4.
- (b) The City may adopt reasonable fees for reimbursement of costs of setting up and operating the City's waste hauler program, which may include:
1. Fees for hauled liquid waste discharge permit applications including the cost of processing such applications;
 2. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a waste hauler's discharge, and reviewing monitoring reports and certification statements submitted by waste haulers;
 3. Fees for filing appeals;
 4. Fees to recover administrative and other costs (not included in subsection (b)(2) of this Section) associated with the enforcement activity taken by the director to address discharger noncompliance; and
 5. Other fees as the City may deem necessary to carry out the requirements of this Chapter.

16.66.200 Closure of Receiving Station

The director may suspend discharge of hauled waste at the receiving station for a period of time deemed reasonable or necessary, for good cause including, but not limited to: RWQCP

operational issues, concerns, or violations; emergencies; natural disasters; power failures; RWQCP maintenance or repair; excess flow entering the RWQCP; and weather conditions. Hauled liquid waste discharge permit holders shall have no recourse against the City for any reason, including, but not limited to, economic loss incurred as a result of receiving station closure.

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

SECTION 4. The Council finds that this project is exempt from the provisions of the California Environmental Quality Act (“CEQA”), pursuant to Section 15061 of the CEQA Guidelines, because it can be seen with certainty that there is no possibility that the Ordinance will have a significant effect on the environment.

SECTION 5. This Ordinance shall be effective on the thirty-first day after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

Assistant City Attorney

City Manager

Director of Public Works