

ORDINANCE NO. 2021-06

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA
ADDING SECTION 35 TO TITLE 5: WATER SOFTENERS**

WHEREAS, the purpose of this ordinance is to protect the quality of the waters of the State and the environment, including, but not limited to, the groundwater in the vicinity of the City of San Juan Bautista, by limiting the amount of brine entering, and subsequently passing through, the Publicly Owned Treatment Works "POTW", and to bring the POTW back into compliance with its California Regional Water Quality Control Board Permit Number R3-2009-0019 and National Pollution Discharge Permit "NPDES" Number CA0047902; and

WHEREAS, it is also the purpose of this ordinance to reduce the expenditure of public funds and mitigate rate increases by lessening the need for new capital facilities to treat wastewater for excessive salinity levels.

NOW, THEREFORE, by adopting this Ordinance, the City fulfills their obligations committed to on August 18, 2020, associated with its commitments to the Environmental Protection Agency ("EPA") Administrative Order on Consent, Docket Number CWA-309(a)-20-007 requiring the City to be in compliance no later than December 21, 2023.

SECTION 1. Adds Ordinance number 2020-02, pertaining to Municipal Code Title 5, Section 5-35 as follows:

5-35-010 Authorization.

This article is enacted pursuant to the police power authority contained in the California Constitution, Article XI, Section 7 and also under the authority in Cal. Health & Safety Code § 116775 et seq.

5-35-020 Definitions.

The following definitions shall apply to the terms used in this article:

"Brine" means a heavily saturated solution containing sodium, chloride, or other salt of the alkali metals.

"CDO" means cease and desist order.

"City Manager" means the City Manager of the City of San Juan Bautista, or his authorized deputy, agent or representative

"Effluent" means treated water discharged from the City wastewater treatment plant to land, where it both evaporates and percolates into the groundwater and the creek.

“Environmental Protection Agency” and “EPA” means the independent Agency of the United States Government that protects, regulates and controls pollution as these activities apply to various pollution prevention practices including the Clean Water Act (“CWA”), and the National Pollution Discharge Elimination System (“NPDES”) program. Enforcement as it applies to the City includes the August 18, 2020 Administrative Order on Consent (“AOC”) Docket Number CWA-309(a)-20-007 requiring the City to be in compliance with its effluent water discharge in to a United States waterway no later than December 21, 2023.

“POTW” means a treatment works as defined by Section 212 of the Act which is owned by the City including any sanitary sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this Chapter, “POTW” shall also include any sewers that convey wastewaters to the POTW from persons outside the City of San Juan Bautista who are, by contract or agreement with the City, users of the San Juan Bautista POTW.

“Regional Water Board” means the California Regional Water Quality Control Board, Central Coast Region, created and exercising its powers pursuant to the Porter-Cologne Water Quality Control Act, Cal. Water Code § 13000 et seq, and its powers to enforce its Waste Discharge Requirements Operation Permit and Master Reclamation Permit for the City of San Juan Bautista Waste Water Treatment and Reclamation Plant Order No. R3-2009-0019, and National Discharge Elimination Permit (“NPDES”) No. CA0047902.

“Residence” means a structure which is, or is intended to be, in whole or in part, a place of dwelling, whether occupied or not, whether fully constructed or not, and includes, without limitation, homes, whether attached to another structure or not, duplexes, triplexes, accessory dwelling units, apartments, condominiums and mobile homes.

“Residential brine discharging water softening or conditioning appliance” means a water softening or conditioning appliance located within or ancillary to a residence located within the City which discharges brine into a sewer system that is tributary to the POTW, whereby the capacity of the appliance to remove hardness from water is renewed by the on-site application of a chloride salt-containing brine solution to the active softening or conditioning material contained therein, followed by a subsequent rinsing of the active softening or conditioning material.

“Saline” means of or containing a salt of potassium, sodium, chloride, magnesium, or other of the alkali metals.

5-35-030 Findings.

(A) The State Legislature and United States government has found and declared that pollution prevention should be the first step in a hierarchy for reducing pollution and managing wastes, and to achieve environmental stewardship for society.

(B) The City owns and operates the City's POTW.

(C) The POTW is regulated by the Regional Water Board and the EPA.

(D) The Regional Water Board issued waste discharge requirements under Waste Discharge Requirements Operation Permit and Master Reclamation Permit for the City of San Juan Bautista Waste Water Treatment and Reclamation Plant Order No. R3-2009-0019 and NPDES No. CA00472902, applicable to the POTW.

(E) On August 18, 2020 the EPA and City executed the Administrative Order on Consent Docket Number CWA-309(a)-20-007 requiring the City to be in compliance no later than December 21, 2023 which required certain programs and projects, including improvements to the POTW, to ensure compliance with the groundwater limitations of the waste discharge NPDES requirements.

(F) The AOC in Section III, subsection 13, makes certain findings of fact that the effluent from the POTW contains various contaminants that are polluting a water way of the United States, and these pollutants include excessive amounts of chloride and sodium unionized as salt, making the effluent salty or "brinish."

(G) Based on the current Water Board permit, the average monthly discharge limits for salinity (chloride, sodium, and total dissolved solids, TDS) are 200 mg/L, 250 mg/L, and 1400 mg/L, respectively. The City has been in violation of these three effluent limits for several years and currently remains in violation.

(H) The City, through Bracewell Engineering, conducted a salt reduction Study, dated November 17, 2004 due to chronic salts violations of its wastewater discharge requirements. A salt analysis performed through a community survey and mass balance calculations indicates removal of on-site, self-regenerating water softeners will have a significant impact in reducing salts in wastewater effluent. Salt loading through the use of water softeners within the City adds an additional seven tons per year into its wastewater stream. A survey of residents completed in 2020, confirms that 60% of the 800 households, residents (approximately 480) continue to rely on self-regenerating water softeners.

(I) The City was unsuccessful in satisfactorily implementing certain programs and projects within the timelines required under previous Cease and Desist Orders dating back to the 1980's, by limiting the availability or prohibiting the installation of residential water softeners that discharge into the POTW is a necessary means of achieving compliance.

(J) The City is working with the Regional Water Board and the Environmental Protection Agency to correct the problems and measures which reduce salinity and will assist the City in complying with the AOC. The Preliminary Engineering Report ("PER") is the first exhibit contained in the City's Water Master Plan and Waste Water Master Plan adopted by City Council Resolution 2020- 47 September 15, 2020. The permit violations are noted in part 2.3.2 of the WWTP Improvements PER, last updated February 2021.

(K) The PER identifies all probable sources of salt and “TDS” in its effluent water. Table 9 of the PER estimates the salinity loading into the WWTP from multiple contribution sources, as summarized below.

Table 9 WWTP Influent Salinity Balance (Average Daily Loads)

Salt Contributors to Total WWTP Influent	TDS	Chloride	Sodium
SALINITY CONCENTRATION, mg/L			
Well No. 1 (Raw Water)	628	77	60
Diet and Personal Care Products	265	18	12
Self-Regenerating Water Softeners	361	217	144
Industrial Users	582	247	145
Inflow and Infiltration	0	40	0
TOTAL WWTP INFLUENT, mg/L	1836	600	362

(L) The PER analyzes various means by which the City can improve its water systems to reduce the salt and TDS in the effluent, and on October 15, 2020, select three compliance projects were submitted to the EPA for approval. They include importing drinking water with little or no salt, exporting its waste water to Hollister Regional Plant, and eliminating the use of self-regenerating water softeners. The City believes that many residences and businesses use self-regenerating water softeners, and that the discharge of brine from the water softeners accounts for approximately 20% of the salinity in the effluent. Such regulatory requirements will further limit the volumes and concentrations of saline discharges from nonresidential sources in the POTW to the extent technologically and economically feasible.

(M) In its letter of approval dated October 30th, the EPA approved the City's compliance projects as follows:

The proposed Compliance Project would construct a pipeline to the Hollister, CA WWTP for off-site treatment and disposal. The City's existing WWTP would be converted to an equalization basin and emergency storage pond to handle variations in flow. Offsite salinity control options will include the implementation of an industrial pre-treatment program for agricultural processing facilities to limit salt discharge from those users. Additionally, the City selected Option 1C from within Alternative 3, which proposes that off-site salinity control will be accomplished by blending well water (very hard water) with treated surface water (moderately hard water) and implementing a buy-back program for self-regenerating water softeners in order to reduce the salinity concentrations of wastewater to be sent to the Hollister WWTP.

(N) On December 1, 2011, at a public hearing, the Water Board adopted Resolution R3-2011-0215, which, among other findings, made a finding that the control of residential salinity input will contribute to the achievement of water quality objectives. Specifically, the Central Coast Water Board amended the City's Master Reclamation Requirements to include the following finding:

The Central Coast Water Board finds that the control of residential use of self-regenerating water softener will contribute to the achievement of the water quality objectives approved in the Basin Plan. This finding is based on evidence in the records of the Central Coast Water Board, as described in this Resolution, demonstrating that salinity input from residential use self-regenerating water softeners is a significant source of controllable salts within the County of San Benito and there are regional economic impacts if residential use of self-regenerating water softeners is not controlled. The Health and Safety Code sections 116785 and 116786 also address salt control.

The City hereby adopts all of the findings contained in the Central Coast Water Board's Resolution No. R3-2011-0215, which is incorporated hereto by its reference.

(O) [The removal of the estimated 480 existing residential brine discharging self-regenerating water softening or conditioning appliances is anticipated to take up to two (2) years if an effective incentive program is implemented. If the incentive program, also known as a "buy-back" program, is successful at removing all of the existing residential brine discharging water softening or conditioning appliances, and if additional salinity reduction efforts for nonresidential water softening or conditioning sources are successful, it will help the City to meet final effluent limitations established in AOC Docket Number CWA-309(a)-20-007. Therefore, it is the intent of this article to establish an incentive program to encourage the timely removal of existing residential brine discharging water softening or conditioning appliances.

(P) The City Council has considered the technological and economic feasibility of alternatives to this article, as well as the potential saline discharge reduction achievable as a consequence of adopting this article.

(Q) Residents within the City shall maintain the ability to soften or condition their water by using water softening or conditioning appliances that do not discharge brine to the POTW. Among these are portable exchange water softeners, which use a removable tank to hold the ion-exchange conditioning material. The ion-exchange tank is removed by a vendor and is "regenerated" with brine at a facility outside the City where brine discharges are allowed.

(R) The City has adopted its compliance projects for the EPA's AOC, they have been approved by the EPA, and the City is currently testing waste water from non-residential users to assure that they are in compliance with the current agreements in place to control the quality of waste water received, and is under contract with an engineering firm to design and establish the enforcement systems required by Municipal Code 5-9-

400 “Uniform Waste Water Regulation” implementing its provisions, and to begin enforcing regulatory requirements that limit the volumes and concentrations of saline discharges from nonresidential sources in the POTW to the extent technologically and economically feasible, including enforcement of local limits and related regulations provided in this chapter.

(S) The anticipated salinity balance, after the compliance projects are complete, will decrease from a total daily average of 1,836 to 789, and the self-regenerating water softeners contribution will decrease from 361 and 20% to 97 and 13% is shown in Table 24 of the PER, and summarized below:

Table 24 Future WWTP Influent Salinity Balance (Average Daily Loads)

Salt Contributors to Total WWTP Influent	TDS	Chloride	Sodium
SALINITY CONCENTRATION, mg/L			
Well No. 1 (Raw Water)	407	78	58
Diet and Personal Care Products	265	18	12
Self-Regenerating Water Softeners	97	58	39
Industrial Users	20	2	2
Inflow and Infiltration	0	40	0
TOTAL WWTP INFLUENT, mg/L	789	196	111

(T) This ordinance is categorically exempt from the California Environmental Quality Act, as a Class 8 exemption, as the implementation of an ordinance to prohibit the installation of new water softening/conditioning appliances is an action to ensure enhancement and protection of the environment, notably the groundwater and creek water.

5-35-040 Prohibition on new water softening/conditioning appliances.

No person shall install or in any manner assist in the installation of a residential brine discharging water softening or conditioning appliance that discharges into the POTW, or that discharges into a private sewer or community sewer system that is tributary to the POTW, or that discharges to land within the City.

A violation of this section is unlawful and punishable by a fine not to exceed one thousand dollars (\$1,000.00). A violation of this section is also declared to constitute a public nuisance, which nuisance may be abated by civil action brought by the City Attorney, or by the issuance of administrative citations pursuant to Chapter 2-7.

5-35-060 Removal of existing water softening/conditioning appliances.

Every person who has an existing self-regenerating brine discharging water softening or conditioning appliance that is installed upon residential property or premises owned by him or her and that discharges into the POTW shall remove and dispose of the installed residential brine discharging water softening or conditioning appliance on or about the date that the West Hills Potable Water supply is connected, installed and fully functional. The City shall notify residents of that date and this requirement. Persons occupying or leasing the residential property or premises of another who has an existing brine discharging water softening or conditioning appliance installed thereon shall notify the property owner of the requirements of this chapter.

5-35-070 Enforcement.

The City Manager shall administer, implement and enforce the provisions of this chapter. In addition to any other provision of this chapter, the City Manager may implement any other enforcement remedies included in this chapter, including disconnecting the unlawfully installed residential brine discharging water softening or conditioning appliance from the POTW, and billing the property owner for the costs to remove and dispose of the appliance. All remedies contained in this chapter shall be cumulative and the use of one (1) or more remedies by the City Manager shall not bar the use of any other remedy for the purpose of enforcing the provisions hereof.

5-35-080 Medical Exemption.

The City Manager shall have the authority to allow medical exemptions and may permit the installation or continued use of individual residential brine discharging water softening or conditioning appliances; provided, that all of the following conditions are met:

- (A) An application for medical exemption has been made on forms prescribed by the City Manager and the exemption shall not be effective until approved by the Director;
- (B) The medical need for soft water is verified in writing by the applicant's physician; and
- (C) The applicant's finances, in the opinion of the City Manager, preclude the use of an alternative water softening or conditioning appliance that does not discharge brine into the POTW.

The City Manager shall have the authority to rescind medical exemptions if the City is in violation of State waste discharge requirements for salinity levels, and in the opinion of the City Manager it is essential that the medical exemption be terminated, or upon the termination of any of the required criteria for such exemption. Such termination shall become effective after sixty (60) days' written notice from the City to the applicant.

SECTION 2. If any section, subdivision, sentence, clause, portion, or phrase of this Ordinance is for any reason held illegal, invalid, or unconstitutional by the decision of

any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The City Council hereby declares that it would have passed this chapter and each section, subdivision, sentence, clause, portion, or phrase hereof, irrespective of the fact that any one or more sections, subdivisions, sentences, clauses, or phrases be declared illegal, invalid or unconstitutional.

SECTION 3. The City Council hereby finds that enactment of this Ordinance is to protect the quality of the waters of the State and the environment, including, but not limited to, the groundwater in the vicinity of the City of San Juan Bautista, by limiting the amount of brine entering, and subsequently passing through, the Publicly Owned Treatment Works "POTW", establishing prohibiting the use or installation of new brine producing water softeners and a buy-back program for existing softener systems, that is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15061(b)(3) [project is exempt when it can be determined with certainty that there is no potential for causing a significant effect on the environment] and Sections 15307 and 15308 [actions taken by a regulatory agency to assure the maintenance, restoration, enhancement, or protection of the environment where regulatory process involves procedures for the protection of the environment].

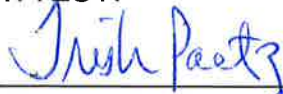
SECTION 4. EFFECTIVE DATE. This ordinance shall go into effect thirty days after the date of its signing.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council of the City of San Juan Bautista duly held on March 16, 2021, and was passed and adopted at a regular meeting duly held on April 20, 2021 by the following vote.

- AYES: Jordan, Edge, Flores, Freels, Freeman
- NOES: None
- ABSENT: None
- ABSTAIN: None



Mayor Leslie Q. Jordan

ATTEST:


Deputy City Clerk Irish Paetz