



**CUPERTINO SANITARY DISTRICT
SANTA CLARA COUNTY
CALIFORNIA**

OPERATIONS CODE

ADOPTED BY ORDINANCE NO. 115

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**CUPERTINO SANITARY DISTRICT
OPERATIONS CODE**

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CHAPTER I - GENERAL PROVISIONS

1000. TITLE

This Code shall be cited and referred to as the CUPERTINO SANITARY DISTRICT OPERATIONS CODE.

1001. APPLICATION OF RULES OF CONSTRUCTION

The general rules of construction set forth in this Article shall be applied throughout this Code, unless the context or the provision clearly requires otherwise.

1002. CONTINUATION OF EXISTING LAW

The provisions of this Code insofar as they are substantially the same as existing regulations relating to the same subject matter shall be construed as restatements and continuations, and not as new enactments.

1003. PENDING PROCEEDINGS

Any action or proceeding commenced before this Code takes effect and any right accrued is not affected by this Code, but all procedure thereafter taken therein shall conform to the provisions of this Code.

1004. ACTS BY AUTHORIZED REPRESENTATIVES

Whenever a power is granted to or a duty is imposed upon an officer or employee of the District, the power may be exercised or the duty may be performed by a deputy or a duly authorized representative of such officer or employee, unless this Code expressly provides otherwise.

1005. GRAMMATICAL INTERPRETATION

- A. **Gender.** Each gender includes the masculine, feminine and neuter genders.
- B. **Number.** The singular number includes the plural and the plural includes the singular.
- C. **Tense.** Words used in the present tense include the past and future tenses, and words used in the future tense include the past and present tenses.

1006. GIVING NOTICE

Whenever a notice is required to be given under this Code, unless different provisions herein are otherwise specifically made in said Code, such notice may be given either by personal delivery thereof to the person to be notified or by deposit in the United States Mail, in a sealed envelope postage prepaid, addressed to such person to be notified, at his last known business or residence address as the name appears in the public records of the District or other records pertaining to the matter to which such notice is directed. Service by mail shall be deemed to have been completed at the time of deposit in the post office.

1007. CONSTITUTIONALITY

If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Code. The Board hereby declares that it would have passed this Code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional, and if for any reason this Code should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

1008. REFERENCE APPLIES TO AMENDMENTS

Whenever a reference is made to any portion of this Code, to any ordinances of this District or to any state Code or statute, said reference shall be to such Code, ordinance or statute as now or hereafter amended, unless herein otherwise provided.

CHAPTER II - DEFINITIONS

2000. APPLICATION OF DEFINITIONS

For the purpose of this Code, certain words, phrases, or terms are defined and shall be construed as defined in this Chapter unless from the context of the Code a different meaning is specifically defined.

2001. ABBREVIATIONS

The following abbreviations are used in this Code:

- A. "CEQA" means the California Environmental Quality Act, and the most recently adopted version of the Guidelines published thereunder by the Governor's Office of Planning and Research, and including also any local Guidelines adopted by the District.
- B. "EPA" means the Federal Environmental Protection Agency.
- C. "gpd" means gallons per day.
- D. "mg/l" means milligrams per liter
- E. "NPDES" means the National Pollutant Discharge Elimination System.

2002. ACCIDENTAL DISCHARGE

"Accidental discharge" means any discharge at a flow rate or concentration which could cause a violation of the discharge standards in this chapter or any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or slug.

2003. ACREAGE

"Acreage" means the gross acres of a parcel of land after the acreage of existing improved streets has been deducted.

2004. AMALGAM SEPARATOR

"Amalgam Separator" means a device that: employs filtration, settlement, centrifugation, or ion exchange to remove Dental Amalgam and its metal constituents from a dental office vacuum system before it discharges to the sanitary sewer; has been certified under the International Organization for Standardization's standard for amalgam separators as capable of removing a minimum of ninety-five (95%) of Dental Amalgam at flow rates comparable to the flow rate of the actual vacuum suction system in operation; and does not have any automatic flow bypass.

2005. AMALGAM WASTE

"Amalgam Waste" means and includes non-contact Dental Amalgam (Dental Amalgam scrap that has not been in contact with the patient); contact Dental Amalgam (including, but not limited to, extracted teeth containing amalgam); Dental Amalgam sludge captured by chairside traps, vacuum pump filters, screens, and other Dental Amalgam trapping devices; and used, leaking or unusable capsules containing Dental Amalgam.

2006. AMMONIA

"Ammonia" means that form of nitrogen which is chemically definable as NH₃.

2007. APPLICABLE LAW

"Applicable law" means this Code, or any other ordinance of the District, or any rule, regulation or order promulgated or issued pursuant to this Code, or the provisions of any code adopted by reference by this Code, or any condition of an approval or permit granted pursuant to this Code, or any combination of the foregoing.

- 2008. ASSESSOR**
"Assessor" means the assessor of Santa Clara County, California.
- 2009. AUDIT PROTOCOLS**
"Audit Protocols" means the procedures to be followed in performing flow and pollutant audit studies.
- 2010. AVERAGE CONCENTRATION**
"Average Concentration" means the concentration of a pollutant in an Industrial User's discharge that is calculated by adding the concentrations of the particular pollutant in all Composite Samples taken during a given time period, including but not limited to self-monitoring samples, and dividing the total by the number of samples taken.
- 2011. BACKFLOW**
"Backflow" means when downstream pipe pressure is greater than upstream pipe pressure.
- 2012. BACKFLOW PREVENTER DEVICE**
"Backflow preventer device" is a valve that is designed to prevent backflow.
- 2013. BATCH DISCHARGE**
"Batch discharge" means the discharge of wastewater resulting from an intermittent treatment process in which an identified amount of process wastewater is collected, treated to meet discharge standards, and released to the sanitary sewer system.
- 2014. BEST MANAGEMENT PRACTICES**
"Best Management Practices" means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the introduction of pollutants to the Sanitary Sewer System which have been determined by the District Manager to be cost effective for particular industry groups, business types, or specific industrial processes.
- 2015. BID**
"Bid" means any proposal submitted to the District in competitive bidding for District purchases and contracts for supplies, materials, equipment and/or services.
- 2016. BIDDERS LIST**
"Bidders List" means a list of qualified vendors or contractors maintained by and on file in the office of the District Manager.
- 2017. BIOCHEMICAL OXYGEN DEMAND (BOD)**
"Biochemical Oxygen Demand" means the quantity of oxygen, expressed in parts per million (ppm) by weight, utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five (5) days at a temperature of 20°C.
- 2018. BOARD, DISTRICT BOARD OR SANITARY BOARD**
"Board", "District Board", or "Sanitary Board" means the governing body of the Cupertino Sanitary District.
- 2019. BOARD MEMBER**
"Board Member" means any member of the governing body of the Cupertino Sanitary District.
- 2020. BUILDING OFFICIAL**
"Building official" means the city or county official having authority to issue certificates of occupancy or final inspection approvals for newly constructed improvements.

- 2021. CATEGORICAL INDUSTRIAL USER**
“Categorical Industrial User” or “CIU” means a source performing any categorical process subject to Federal pretreatment standards, as described in 40 CFR 405-471 that has any connection to the sanitary sewer system.
- 2022. CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD**
"Categorical pretreatment standard" or "categorical standard" means any regulation containing pollutant discharge limits promulgated by EPA that apply to specific categories of users and which appear in 40 CFR 405-471.
- 2023. CLEAN WATER ACT**
“Clean Water Act” means the 1972 amendment to the Federal Water Pollution Control Act, 33 U.S.C. section 1251 et seq. The Clean Water Act is the primary legislation concerning water pollution and its regulation. The Clean Water Act establishes a permit system that must be used by point sources of pollution such as industrial facilities, government facilities, and agricultural operations. These point sources are not allowed to discharge or dispose of the pollutants they produce in surface water without a permit from the National Pollutant Discharge Elimination System (NPDES).
- 2024. CLERK**
"Clerk" means the Clerk of said District.
- 2025. CODE OF FEDERAL REGULATIONS**
"Code of Federal Regulations" or "CFR" refers to the Code of Federal Regulations as published by the Office of the Federal Register National Archives and Records Administration. Whenever a reference is made to any portion of said Code, or to any other federal regulation, such reference shall apply to all amendments and additions to such portion of said Code now or hereinafter enacted.
- 2026. COMMISSION**
"Commission" means the California Uniform Construction Cost Accounting Commission, as established under Section 22020 et seq. of the Public Contract Code.
- 2027. COMPOSITE SAMPLE**
"Composite sample" means a sample that accurately represents the average pollutant concentration during a continuous time period.
- A. A flow-proportional or time-proportional sample may be obtained manually or automatically, and discretely or continuously. For manual compositing, at least six (6) individual samples from each sample point shall be combined and mixed to obtain one (1) composite sample; flow-proportion may be obtained either by varying the time interval between each discrete sample or the volume of each discrete sample.
- B. If multiple batches are discharged over a twenty-four-hour period, then one sample must be collected from each batch discharged in that twenty-four-hour period and composited into a single sample. A single sample from a batch representing one (1) or more production days will be considered a single composite sample.
- 2028. CONNECTOR**
"Connector" means any owner or renter of any premise connected to the sewer system.
- 2029. CONTINUOUS DISCHARGE**
"Continuous discharge" means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

- 2030. CONTRACTOR**
"Contractor" means any person who performs the work of installing and connecting main, sub-main, lateral sewers, or house sewers to the District sewerage system.
- 2031. COUNTY**
"County" means the County of Santa Clara, California.
- 2032. CRITICAL USER**
"Critical user" means a discharger whose wastewater contains priority pollutants, or who discharges any waste which has the potential to cause interference in concentrations above those allowed in this chapter or who discharges in excess of one hundred thousand (100,000) gpd.
- 2033. DENTAL AMALGAM**
"Dental Amalgam" means an alloy of mercury with another metal, used by dentists to fill cavities in teeth.
- 2034. DILUTING WATERS**
"Diluting waters" means non-contact cooling water, boiler blowdown, domestic sewage, groundwater, storm water, surface drainage, reverse osmosis reject, water softener regeneration, potable waters, or any waters which are not part of an industrial process and which do not contain priority pollutants but are combined with industrial wastewater prior to the monitoring point for industrial wastewater discharge. Diluting waters also includes excess water used in production processes, such as rinse tanks or rinse water running when in production in excess of operational or quality requirements.
- 2035. DIRECTOR**
"Director" means the Director of Environmental Services of the City of San Jose.
- 2036. DISCHARGER**
"Discharger" means any person discharging wastewater into the sanitary sewer system.
- 2037. DISTRICT**
"District" means the Cupertino Sanitary District, Santa Clara County, California.
- 2038. DISTRICT COUNSEL**
"District Counsel" means the Counsel of said District.
- 2039. DISTRICT ENGINEER**
"District Engineer" means the Engineer of said District.
- 2040. DISTRICT MANAGER**
"District Manager" means the Manager of said District.
- 2041. DOMESTIC WASTEWATER**
"Domestic wastewater" means wastewater from private residences and wastewater from other premises resulting from the use of water for personal washing, sanitary purposes, or the elimination of human wastes and related matter.
- 2042. ENFORCEMENT OFFICER**
"Enforcement officer" means the District Manager, the District Engineer, the District Counsel, the Director, and any of their respective authorized representatives or agents having the authority to enforce any applicable law.

- 2043. ENVIRONMENTAL SERVICES DEPARTMENT**
"Environmental Services Department" means the Environmental Services Department of the City of San Jose, or any successor department designated by the City of San Jose to which the same functions, duties and responsibilities are assigned as described in this Code.
- 2044. EXISTING SOURCE**
"Existing source" means any source of discharge that is not a new source.
- 2045. FACILITY**
"Facility" means any portion of the District's sanitary sewer system, including sewers, pump stations, plants, buildings, structures, real property, and any improvements thereon.
- 2046. FIXER SOLUTION**
"Fixer Solution" means a solution containing silver used in the photographic processing of dental x-rays, x-rays and photographs.
- 2047. FOOD SERVICE ESTABLISHMENT**
"Food Service Establishment" means a user that prepares and/or sells food for consumption either on or off the premises or washes utensils or dishes on premises that may contribute Grease to the sewer system, including, but not limited to, restaurants, sandwich shops, delicatessens, bakeries, cafeterias, markets, bed and breakfast inns, motels, hotels, meeting halls, caterers, retirement and nursing homes or pizzerias. The term does not refer to single family units, food stores or establishments that do not prepare food on premises and do not process food in a manner which may contribute Grease to the sewer system. A Food Service Establishment shall be deemed to be contributing Grease to the sanitary sewer system where a Sanitary Sewer Overflow has occurred due to Grease, or there has been a loss of twenty-five percent (25%) or more of sewer line capacity due to Grease, downstream of the Food Service Establishment.
- 2048. FRONTAGE**
"Frontage" means the distance in feet that a parcel of land runs along an existing street.
- 2049. GARBAGE**
"Garbage" means solid wastes from the preparation, cooking and dispensing of foods, and from the handling, storage, and sale of produce.
- 2050. GRAB SAMPLE**
"Grab Sample" means a single discrete sample collected at a particular time and place which represents the composition of the waste stream only at that time and place.
- 2051. GREASE**
"Grease" means liquid or other waste containing floatable and/or dispersed grease, vegetable oil, petroleum oil, non-biodegradable cutting oil, or fat, oil or grease products of animal, vegetable or mineral origin which is detectable and measurable using analytical test procedures established in the United States Code of Federal Regulations, 40 CFR 136.
- 2052. GREASE CONTROL DEVICE**
"Grease Control Device" means a Grease Interceptor, Grease Trap, Mechanical Grease Removal Device or other device approved for use by the Director.
- 2053. GREASE INTERCEPTOR**
"Grease Interceptor" means a large tank installed underground and designed to collect and control solid food wastes and floating-grease from wastewater prior to discharge into the sanitary sewer collection system. Grease Interceptors are normally installed outside the building and use gravity to separate Grease from wastewater as it moves from one compartment of the interceptor to the next.

- 2054. GREASE TRAP**
"Grease Trap" means a device placed under or in close proximity to sinks or other fixtures likely to discharge grease in an attempt to separate, trap and hold oil and grease substances.
- 2055. HEALTH DEPARTMENT**
"Health Department" means State, County or City Health Department.
- 2056. HEARING OFFICER**
"Hearing officer" means any person designated by the District Manager to hear an appeal of an administrative citation. The hearing officer shall not be any enforcement officer or direct supervisor of an enforcement officer and may be a non-employee of the District or the District Manager. The employment, performance evaluation, compensation and benefits of the hearing officer shall not be directly or indirectly conditioned upon the amount of administrative citation fines upheld by the hearing officer.
- 2057. INDUSTRIAL USER**
"Industrial User" means any non-residential user that discharges industrial wastes to the Sanitary Sewer System.
- 2058. INDUSTRIAL WASTES**
"Industrial Wastes" means the wastes from producing, manufacturing and processing operations of every kind and nature.
- 2059. INDUSTRIAL WASTES OF EXCESSIVE STRENGTH**
"Industrial Wastes of Excessive Strength" means industrial wastes discharged from any premises into the sanitary sewer system in any one operating day:
- A. Which have an average daily suspended solids content in excess of 300 parts per million; or
 - B. Which have an average daily biochemical oxygen demand in excess of 300 parts per million; or
 - C. Which contain in excess of 2,500 pounds of suspended solids; or
 - D. Which contain in excess of 2,500 pounds of biochemical oxygen demand.
- 2060. INSTALLER**
"Installer" means any person who installs main or branch sewers within the District for connection to the District sewer system.
- 2061. INTERFERENCE**
- A. "Interference" means a discharge which alone, or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the processes or operation of the Sanitary Sewer System, including the Plant, or causes or significantly contributes to a violation of any requirement of the National Pollutant Discharge Elimination System (NPDES) Permit, which is a permit issued pursuant to Section 402 of the Clean Water Act.
 - B. "Interference" also includes prevention of bio-solids use or disposal by the Plant in accordance with published regulations providing guidelines under Section 405 of the Clean Water Act or in regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Water Act, the Toxic Substances Control Act, or more stringent state regulations (including those contained in any state bio-solids management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the Plant.

- 2062. LOCAL AGENCY**
"Local Agency" means City, County, or other public entity that has jurisdiction over a street or private property.
- 2063. LOWEST RESPONSIBLE BIDDER**
"Lowest responsible bidder" means the lowest monetary bidder who has demonstrated the attribute of trustworthiness as well as quality, fitness, capacity and experience to satisfactorily perform the contract.
- 2064. LOW FLOW DISCHARGER**
"Low flow discharger" means an industrial discharger whose average process flow, as shown on the dischargers' application to discharge and as measured as a rolling six-month average, is less than one thousand (1,000) gallons per day.
- 2065. MASS AUDIT STUDY**
"Mass Audit Study" means an investigation of pollution prevention and source reduction measures performed by or for an Industrial user, pursuant to Audit Protocols acceptable to the District, to analyze the volume and concentration of nickel, copper, and/or any other Priority Pollutant identified in regulations adopted by the District in an Industrial User's process streams and discharge, and to identify the Maximum Feasible Reduction Measures available to the Industrial User.
- 2066. MAXIMUM ALLOWABLE CONCENTRATION**
"Mass Allowable Concentration" means the highest permissible concentration or other measure of pollutant magnitude taken at a specific point in time.
- 2067. MECHANICAL GREASE REMOVAL DEVICE**
"Mechanical Grease Removal Device" means a power operated device or combination of devices using electrical equipment to heat, filter, siphon, skim or otherwise separate and retain floating grease and solid food waste prior to the wastewater exiting the trap and entering the sanitary sewer collection system.
- 2068. NEW SOURCE**
"New source" means:
- A. Any building, structure, facility or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Clean Water Act that will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 1. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 2. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 3. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
 - B. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section A.(2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.

- C. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
1. Begun, or caused to begin, as part of a continuous onsite construction program
 - a. Any placement, assembly or installation of facilities or equipment; or
 - b. Significant site preparation work, including clearing, excavating, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 2. Entered into a building contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

2069. OPERATING DAY

"Operating Day" means the period or periods of time during each 24-hour day during which industrial wastes are being discharged from premise into the sanitary sewer.

2070. PASS-THROUGH

"Pass-through" means a discharge which exits the plant into waters of the U.S. in quantities or concentrations which alone, or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the plant's NPDES permit, including an increase in the magnitude or duration of a violation.

2071. pH

"pH" means the logarithm of the reciprocal of the concentration of hydrogen ions per moles per liter of solution.

2072. PERSON

"Person" means any person, firm, company, corporation, partnership, association, any public corporation, political subdivision, city, county, district, the State of California, or the United States of America, or any department or agency of any thereof, unless this Code expressly provides otherwise.

2073. PLANT

"Plant" means the San Jose-Santa Clara Regional Wastewater Facility.

2074. POLLUTANT NOT PRESENT

"Pollutant Not Present" means a pollutant regulated by a categorical pretreatment standard that is not used or stored in a categorical industrial user's facility, is not added to or created by any industrial or pretreatment process at the facility, and is not present above the background levels of the water supply.

2075. PREMISE

"Premise" means any lot, parcel of land, building or establishment, including a condominium as defined in Section 783 of the Civil Code of the State of California as an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential, industrial or commercial building on such real property, such as an apartment, office or store and which may also include in addition a separate interest in other portions of such real property.

2076. PRESIDENT

"President" means the President of the District.

- 2077. PRETREATMENT REQUIREMENTS**
"Pretreatment requirements" means any substantive or procedural requirement related to pretreatment imposed on an industrial user other than a pretreatment standard.
- 2078. PRETREATMENT STANDARD**
"Pretreatment standard" means prohibited discharge standards, categorical pretreatment standards, and local limits.
- 2079. PRIORITY POLLUTANTS**
"Priority Pollutants" means all pollutants as defined by the "General Pretreatment Regulations" of the Environmental Protection Agency, found at 40 CFR 401 and 403, as now or hereafter amended.
- 2080. PROCESS FLOW**
"Process Flow" means the daily, twenty four (24) hour, flow of wastewater from any kind or nature of production, manufacturing or processing operation, including industrial and commercial operations where water is used for the removal of any type of waste other than Sanitary Sewage. Process Flow does not include Diluting Waters.
- 2081. PUBLIC CONTRACT CODE**
"Public Contract Code" means the Public Contract Code of the State of California
- 2082. PUBLIC PROJECT**
"Public project" means any of the following:
1. Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any facility owned, leased, or operated by the District.
 2. Painting or repainting of any facility owned, leased, or operated by the District.
 3. "Maintenance work" includes work performed to keep, operate and maintain the District's sanitary sewer system, including routine, recurring, and usual work for the preservation or protection of any facility owned or operated by the District for its intended purpose.
- 2083. PURCHASES**
"Purchases" means purchases of supplies and equipment shall include leases or rentals, as well as transactions by which the District acquires ownership.
- 2084. PURCHASING OFFICER**
"Purchasing Officer" means the person responsible for purchasing supplies and equipment for the District.
- 2085. RESPONSIBLE PERSON**
"Responsible person" means any person who is in immediate control of the premises or activity which constitutes a violation of an applicable law, the business owner, the property owner, and any person engaging in prohibited conduct.
- 2086. SANITARY SEWAGE**
"Sanitary Sewage" means water-carried wastes from residences, business buildings, institutions, and industrial establishments, excluding ground, surface and storm waters, and also excluding industrial wastes as defined in Section 2033 hereof.
- 2087. SANITARY SEWER OVERFLOW**
"Sanitary Sewer Overflow" is any overflow, spill, release, discharge, or diversion of untreated or partially treated wastewater from a sanitary sewer system, including overflows or releases that reach waters of the United States, overflows or releases that do not reach waters of the

United States, and backups into buildings and/or private property caused by conditions within the publicly owned portion of the sewer system.

2088. SANITARY SEWER SYSTEM

"Sanitary Sewer System" means all Sewers, treatment plants, and other facilities owned or operated by the District for carrying, collecting, pumping, treating, and disposing of Sanitary Sewage and Industrial Wastes.

2089. SECRETARY

"Secretary" means the Secretary of the District.

2090. SERVICES

"Services" means any and all services including, but not limited to, equipment service contracts. The term does not include services rendered by District officers or employees, or professional or other services which are by nature unique or which the procedure for procurement is specifically provided by law.

2091. SEWAGE TREATMENT PLANT

"Sewage Treatment Plant" means the San Jose-Santa Clara Regional Wastewater Facility.

2092. SEWERS

"Sewers" are defined as follows:

- A. "Building Sewer/House Sewer/Upper Lateral" means that portion of the side sewer within private property from the cleanout to the building.
- B. "Lower Lateral Sewer" means that portion of the side sewer within a public street, District easement, or public service easement.
- C. "Main Sewer" means a sewer into which the sewage from two or more sub-main sewers is discharged. Main sewers also receive sewage from side sewers.
- D. "Outfall Sewer" means a sewer extending from the lower end of the collecting system to a point of final disposal.
- E. "Sewer" means a conduit for carrying off sewage.
- F. "Side Sewer" means the sewer between sub-main or main sewer and the foundation of the building.
- G. "Sub-main Sewer" means a sewer into which the sewage from side sewers is discharged.

2093. SHALL AND MAY

"Shall" is mandatory, and "May" is permissive.

2094. SIGNIFICANT CHANGE

"Significant Change" means any change in an industrial user's operation that results in any of the following:

- A. An increase or decrease in annual average process flow of twenty-five (25) percent over the Standard Discharger's average process flow for the discharger's most immediate preceding twelve (12) months.
- B. An increase or decrease in annual average process flow that results in a change from Low Flow Discharger to Standard Discharger or from Standard Discharger to Low Flow Discharger.
- C. An increase or decrease in annual average process flow that results in a change from non-Significant Industrial User to Significant Industrial User or from Significant Industrial User to non-Significant Industrial User.

- D. An increase or decrease in annual production rate of twenty-five (25) percent for any industrial user subject to production-based limits over the industrial user's production rate for the most immediate preceding twelve (12) months.
- E. Adding or deleting process discharge or sample points.
- F. Waiver of monitoring requirements for any pollutant not present.

2095. SIGNIFICANT INDUSTRIAL USER

"Significant Industrial User" means:

- A. An industrial user that has processes subject to categorical pretreatment standards except as provided under Subsection C of this Section; or
- B. An industrial user that:
 - 1. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the sanitary system (excluding sanitary, noncontact cooling and boiler blowdown wastewater); or
 - 2. Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the plant; or
 - 3. Is designated as such by the District Manager on the basis that it has a reasonable potential for adversely affecting the plant's operation or for violating any pretreatment standard or requirement.
- C. The District Manager may determine that a categorical industrial user is not a Significant Industrial User (i.e. non-significant categorical industrial user) if the categorical industrial user meets the following conditions:
 - 1. Does not discharge more than one hundred (100) gpd of total categorical process wastewater;
 - 2. Has complied with all applicable categorical pretreatment standards;
 - 3. Never discharges any untreated concentrated wastewater; and
 - 4. Submits annually a certification statement pursuant to 40 CFR 403.12(q).

2096. SIGNIFICANT NONCOMPLIANCE

An industrial user is in "significant noncompliance" if it has a violation or violations meeting one (1) or more of the following criteria:

- A. Chronic violations of wastewater discharge limits defined here as those in which sixty-six (66) percent or more of all the measurements taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);
- B. Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);
- C. Any other violation of a pretreatment standard or requirement as defined by 40 CFR 403.3 (l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Director determines has caused, alone or in combination with other

discharges, interference or pass through (including endangering the health of the Director personnel or the general public);

- D. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the plant's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within ninety (90) days after the scheduled due date, a compliance schedule milestone contained in a discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; and
- H. Any other violation or group of violations, which may include a violation of reasonable control measures, which the Director determines will adversely affect the operation or implementation of the pretreatment program.

2097. SLUG LOAD OR SLUG DISCHARGE, SLUG CONTROL PLAN

- A. "Slug Load" or "Slug Discharge" means any discharge of non-routine, episodic nature, including but not limited to, an accidental spill or non-customary batch Discharge, which has a reasonable potential to cause Interference or pass-through or in any other way cause a violation of the provisions of this Chapter or applicable permit conditions.
- B. "Slug Control Plan" means the document prepared pursuant to 40 CFR 403.8(f)(1)(iii)(B)(6) by a Significant Industrial User that describes the procedural and operational controls in place to prevent a slug load or slug discharge.

2098. SOURCE

"Source" means any building, structure, facility or installation from which there is or may be a potential as determined by the Director to discharge pollutants above the local limits included in this chapter or state or federal limits or wastewater of such volume or strength that is may cause interference, pass through or operational problems in the sanitary sewer system or at the San José/Santa Clara Water Pollution Control Plant.

2099. STANDARD DISCHARGER

A "standard discharger" means any industrial discharger who is not a low flow discharger.

2100. STANDARD METHODS

- A. "Standard Methods" means the procedures set forth in the Code of Federal Regulations unless another method for the analysis of industrial wastewater has been approved in writing in advance of use of the procedure by the District Manager or the Director.
- B. All analyses shall be performed by a laboratory certified by the State for the specific pollutants and matrix to be analyzed, unless otherwise approved in writing, by the District or the Director, prior to performance of a sample analysis.

2101. STORM WATERS

"Storm Waters" means rain water, surface water, ground water, roof runoff, or sub-surface drainage.

2102. STREET

"Street" means any public highway, road, street, drive, avenue, alley, way, court, easement, or right-of-way.

- 2103. SUPPLIES, MATERIALS AND EQUIPMENT**
"Supplies," "materials" and "equipment" means any and all articles, things or tangible personal property furnished to or to be used by the District.
- 2104. SUSPENDED SOLIDS (SS)**
"Suspended Solids" means solids that either float on the surface of, or are in suspension in, water, sewage, or other liquids and which are removable by laboratory filtering.
- 2105. TAX COLLECTOR**
"Tax Collector" means the tax collector of Santa Clara County, California.
- 2106. TOTAL TOXIC ORGANICS**
"Total Toxic Organics" ("TTOs") are the sum of the concentrations for each of the regulated toxic organic compounds listed at 40 CFR 401.15 and which are found in the discharge at a concentration greater than ten (10) micrograms per liter.
- 2107. TREASURER**
"Treasurer" means the treasurer of Santa Clara County, California.
- 2108. TRUCKED OR HAULED WASTE**
Trucked or Hauled Waste" means any waste discharged into the sanitary sewer system after being transported by motorized vehicle from the location where the waste was generated or produced.
- 2109. UNIT**
- A. Unit means a use, occupancy, or activity established or conducted upon a premises having a connection to the District's sanitary sewer system, either separately or along with other units sharing the same connection.
 - B. Single Family Unit means a room or group of rooms having living, sleeping, kitchen, and toilet facilities, constituting a separate and independent housekeeping unit designed and intended for occupancy by one or more persons as a place of residence. A Single Family Unit shall be one of the following:
 - 1. A single family detached home;
 - 2. Each separate dwelling unit within a duplex, tri-plex, four-plex apartment project, condominium project, or mobile home park.
- 2110. UPSET**
"Upset" means an unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
- 2111. WRITING**
"Writing" means any form of recorded message capable of comprehension by ordinary visual means.
- 2112. YELLOW GREASE**
"Yellow Grease" means Grease which is associated with food preparation or processing, which has not been contaminated with wash water or chemicals, or by being spilled or otherwise fouled.

2113. ZERO DISCHARGER

"Zero discharger" means an industrial facility that does not discharge any wastewater except domestic wastewater to the sanitary sewer system.

2114. ZERO DISCHARGE CATEGORICAL USER OR ZDC

"Zero discharge categorical user" or "ZDC" means an industrial facility that performs any categorical process subject to Federal pretreatment standards, as described in 40 CFR 405-471, that has any connection to the sanitary sewer system, but does not discharge wastewater from the categorical process to the sanitary sewer.

CHAPTER III - ORGANIZATION

3000. DISTRICT OFFICE

The business office of the District is hereby fixed and established at the Stevens Creek Office Center, 20863 Stevens Creek Boulevard, Suite 100, Cupertino, California 95014.

3001. MEETINGS OF DISTRICT BOARD

- A. Regular Meetings. The regular meetings of the Board shall be held on the first and third Wednesdays of each and every calendar month at the hour of 7:30 P.M. The Board may, by motion recorded in the minutes, establish a different day or a different start time, or both, for the conduct of one or more regular meetings, which shall be indicated in any posted or published notice of each meeting.
- B. Meeting Place. All meetings of the Board shall be held at the District business office, unless the meeting is adjourned to or fix another place of meeting in a notice for such meeting, in said District.

3002. APPOINTED POSITIONS

The following positions are hereby established and shall be filled by appointment by the District Board. Appointees shall hold office at the pleasure of the Board and shall receive such compensation, expense reimbursement, and employment benefits as may be established from time to time by the District Board.

A specific individual shall be appointed by the Board to fill each position and the same person may be appointed to more than one position. Where the appointee is a member of, or employed by, any partnership, corporation, or other business entity, the appointment shall be deemed to be of the individual person and not the business entity.

- A. **District Manager** – Whose duties shall be as prescribed by the District Board and by this Code. Said duties shall include, but are not limited to, supervision of all administrative matters pertaining to the operation, construction, replacement, maintenance and repair of the sanitary sewer system. The District Manager shall also serve as the Clerk of the District and the Purchasing Officer for the District, and shall perform the duties of said offices as prescribed by the District Board and by this Code or otherwise prescribed by law.
- B. **District Engineer** – Whose duties shall be as prescribed by the District Board and by this Code. Said duties shall include, but are not limited to, the preparation of all plans and specifications for District projects, and the checking of all plans and specifications prepared by an Installer's engineer. The District Engineer shall be a Civil Engineer, registered in accordance with the laws of the State of California.
- C. **District Clerk.** The District Clerk shall be responsible for posting of notices of Board meetings as required by State law, preparation of minutes of meetings, maintaining records of all District ordinances, resolutions, contracts, and notices, and performing such other duties as prescribed by this Code or otherwise prescribed by law, or assigned to him from time to time by the District Board. Unless otherwise designated by the District Board, the District Manager shall also serve as the District Clerk.
- D. **District Counsel.** The District Counsel shall act as the legal advisor to the District and shall prepare or review ordinances, resolutions and other legal documents. He shall at all times be a member in good standing of the State Bar of California. The District Counsel shall perform such other duties as prescribed by this Code or otherwise prescribed by law, or assigned to him from time to time by the District Board.

3003. DISTRICT ZONES

The area of the Cupertino Sanitary District, including its future service area as defined by the District contract with the City of San Jose and the City of Santa Clara relating to the sewage treatment plant, is hereby divided into Zones 1, 2, 3 and 4 as delineated on the District Zone Map dated March, 1986, on file in the office of the District and a copy of which is made a part hereof.

CHAPTER IV - GENERAL REGULATIONS

ARTICLE 1: GENERAL REQUIREMENTS & PROCEDURES

4100. CONNECTION TO SEWER

All new buildings within the District shall connect to the District sewer system and all land development projects shall include provisions for future buildings to connect to the District's sewer system. An individual side sewer shall be provided for each building, except that when a building is located in the rear of another building on an interior lot, permission may be granted by the District to connect both buildings to the same side sewer, provided the buildings are under the same ownership and it would not be possible for the buildings to become vested under separate ownership.

Notwithstanding the provisions hereof, single family residential units with common walls, condominium, stock cooperative, community apartment or other similar improvement which entitles owners of interests therein to occupy independent ownership interests and to make joint use of utility and other services, which may be provided by facilities owned in common, may, upon issuance of a permit authorizing such common use by the District Engineer, be permitted to maintain a common side sewer or sewers only in the case of multi-story structures.

4101. CLEANOUTS

All side sewers shall be provided by the connector, with a cleanout raised to grade at the point where the building sewer joins the lateral sewer. All cleanouts shall meet the Standard Specifications of the District and shall be watertight and maintained by the connector.

All property owners shall install new property line cleanout per District adopted Standard Details for new development and for any property requiring building permits from any city or county served by the District.

4102. ELEVATION OF PLUMBING FIXTURES TOO LOW

In all buildings in which there are plumbing fixtures at an elevation too low to permit drainage by gravity from said fixtures to the public sewers, the sewage from said fixtures shall be lifted by artificial means and discharged to the public sewer at the owner's expense. In all buildings where the floor elevation is below the rim elevation of the nearest upstream manhole, provisions for a backflow protective device shall be made in accordance with Section 4105. A backflow protective device shall also be installed in private sewers, mains and laterals wherever and whenever the District may deem advisable.

4103. MAINTENANCE OF SEWER LATERAL

It shall be the responsibility of the connector/owner to maintain upper lateral, which is defined to be privately owned from the cleanout to the building. Connector/owner shall also be responsible for the lower sewer lateral maintenance (from cleanout to the sewer main), except that if a cleanout is provided pursuant to Section 4101 hereof, the District will then be responsible for maintenance of the lower sewer lateral. In the event of a stoppage in the sewer lateral which is caused by the connector/owner, said connector/owner shall reimburse the District for expenses incurred in clearing the stoppage.

Where a sewer lateral provides service to more than one unit or dwelling unit in a development with common walls, condominium, stock cooperative, community apartment or other similar improvements, the obligation to maintain the entire sewer lateral shall be in the homeowners' association or other entity responsible for the maintenance of the property and facilities owned in common.

4104. WORK AFFECTING EXISTING SEWERS

Any person who undertakes to pave, resurface, grade, or do any work on any street that contains District sewers shall not cover up or conceal any manhole, or structure or their covers, and every care must be used to protect them. In the event said work results in damage to, or a change of grade in the area of the

manhole or structure, the person performing the work shall be responsible, at his own expense, for repairing or modifying the manhole or structure to meet the new grade. Before any work is performed upon District manholes or structures, the District Manager shall be contacted and all work shall be done under the direction of the District Engineer, and in accordance with District standards.

4105. SEWAGE BACKFLOW PROTECTIVE DEVICE

To assist in the protection of health and property, the District shall require a backflow valve or overflow device to be installed in the house sewer serving any building where the lowest floor elevation (containing plumbing fixtures) will be less than one (1) foot above the rim of the nearest upstream manhole or flushing inlet.

When an overflow device is installed, the elevation of the discharge of said installation shall be one (1) foot below the lowest floor elevation containing a plumbing fixture.

4106. PROTECTION FROM DAMAGE

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the District's sanitary sewer system. Any person violating this provision shall be guilty of a misdemeanor and subject to the penalties as prescribed in Chapter 8 of this Code.

ARTICLE 2: PURCHASING OF SUPPLIES AND EQUIPMENT

4200. PURPOSE OF ARTICLE

This Article is enacted to set forth policy to establish efficient procedures for the purchase of supplies, materials, equipment, and services at the lowest possible cost commensurate with quality needed, and to clearly define authority for the purchasing function of the District.

4201. PURCHASES

The District Manager is vested with the authority for the purchase of supplies, materials, equipment and services. When the provisions and intent of this Article may be best served by doing so, the District Manager may investigate, solicit bids or negotiate the purchase or award of contracts to be approved by the Board for supplies, materials, equipment or services for the District, provided that such shall be done in conformity with the procedures prescribed by this Article or by duly adopted rules and regulations pertaining thereto.

The District Manager shall have the responsibility and authority to:

Purchase or contract for materials, supplies, equipment and services to be performed as may be required by the District in accordance with procedures prescribed by this Article or by such rules and regulations as the District Manager may prepare for adoption by the Board of Directors.

Prepare and recommend for adoption by the Board of Directors rules and regulations not in conflict with the provisions of this Article for the purpose of carrying out the requirements and intent of this purchasing system.

4202. PURCHASE ORDERS OR CHECK REQUESTS NEEDED

Purchases of supplies, materials, equipment or services shall be made only by means of purchase orders or check requests processed and issued pursuant to this Article. The purchase orders or check requests shall be valid only when signed by the District Manager or other persons as may be designated by the District Manager to act in behalf of the District Manager.

4203. AVAILABILITY OF FUNDS

The District Manager shall not issue any purchase order or check request, or recommend the award of any contract to the Board for the acquisition of supplies, materials, equipment or services, unless

there exists an unencumbered appropriation in the funds as approved by the Board of Directors in adopting the annual budget. The appropriate account and funds shall be encumbered immediately after the issuance of the purchase order or check request or award of contract.

4204. PURCHASING REQUIREMENTS

- A. Open Market Purchases. The District Manager may recommend the award of contracts or issue purchase orders or check requests for the acquisition of supplies, materials, equipment or services in the open market without observing the competitive procedure contained in this Article when the dollar value of the individual purchase will be foreseeably equal, or be five thousand dollars (\$5,000) or less.
- B. Purchases Approved by District Board- Application of Formal Competitive Bidding Procedures. In instances where the acquisition of individual supplies, materials, equipment or services will foreseeably result in the issuance of a purchase order, check request, or the award of a contract with a dollar value in excess of five thousand dollars (\$5,000), such will be authorized only by action of the Board of Directors.
- C. Such action shall be taken after the formal competitive bidding procedures described in this section are followed, unless pursuant to a written recommendation of the District Manager, the Board of Directors finds that the use of the formal competitive bidding procedure is not practical due to limitations on source of supply, necessary restrictions in specifications, necessary standardization, quality considerations, or if other valid reasons for waiving the formal competitive bidding process procedures appear. Upon making such a finding, the Board may direct the District Manager to dispense with the formal competitive procedure and make the purchase on the open market or through any other procedure which meets the District's requirements, including the Informal Competitive Bidding Procedure set out in subsections D and E below.

4205. EXEMPTIONS

Notwithstanding any provision of this Article to the contrary, the District Manager, is authorized to issue a purchase order or check request, or recommend to the Board of Directors award of a contract, without adherence to the other provisions of this Article under the following instance:

- A. **Emergency Purchases** - The immediate requirement of an item necessary for the continued operation of the District or for the preservation of life or property shall be deemed an emergency. A full report of the circumstances of emergency purchase in excess of the amount describe in subsection 4204B shall be filed with the Board of Directors at its next regular meeting after the purchase was made.
- B. **Recurring or Essential Services** - Purchase orders or check requests, including payment of claims against the District where reasonable advanced estimates of costs cannot be determined for essential services of a recurring nature.
- C. **Purchases from Other Public Agencies** - Purchases of supplies, materials, equipment or services from any other public agency created under the laws of the State of California or the United States Government are exempt from the bidding requirements of this Article.
- D. **Professional Services** - Professional services, including, but not limited to, services of lawyers, architects, engineers, land surveyors, artists and accountants are exempt from the bidding requirements of this Article."

ARTICLE 3: DISPOSITION OF SURPLUS PROPERTY

4301. ADOPTION OF SALES SYSTEM

In order to establish efficient procedures for the sale of surplus supplies and equipment at the highest possible return, to exercise positive financial control over such sales, and to define clearly the authority for the administration of these functions, a surplus sales systems is adopted.

4302. SURPLUS SALES OFFICER

The District Manager shall be and is appointed to perform the functions of the Surplus Sales Officer for the District and shall have the responsibility and authority to:

Sell surplus supplies and equipment as may be required by the District in accordance with procedures prescribed either by this Article, or by such administrative rules and regulations as the District Manager may adopt pursuant thereto;

Prepare and recommend to the Board of Directors rules and regulations not in conflict with the provisions of this Article for the purpose of carrying out the requirements and intent of this surplus sales system.

4303. CENTRALIZED SALES

To the extent that efficiency and fairness may be best achieved in the sales of surplus supplies and equipment to the District, the acceptance of all bids and the sales of all District surplus supplies and equipment shall be centralized under the District Manager.

When the provisions and intent of this Article may best be served by so doing, the District Manager may investigate, solicit bids, or negotiate the sale of surplus supplies and equipment of the District, independently of the centralized sales system, provided that such actions shall be done in conformity with the procedures prescribed either by this Article, or by duly adopted rules and regulations pertaining thereto.

4304. SURPLUS BY AUCTION ONLY

Sales of surplus supplies and equipment which, in the opinion of the District Manager, have an estimated individual value in excess of five thousand dollars (\$5,000) shall be made only by means of public auctions held under the authority and scrutiny of the District Manager.

All such auction sales shall be with reserve, and the District Manager can withdraw the surplus items at any time prior to the completion of the sale.

4305. BIDDING AND PAYMENT

All sales of surplus supplies and equipment made by public auction, as set forth in Section 4304, shall be to the highest bidder pursuant to the procedure hereinafter described:

Notices inviting bids shall be prepared, published once in a newspaper of general circulation published and circulated within the District, and distributed to persons who have requested to be notified of such bidding opportunities. The notices shall contain a description of the items to be auctioned, shall state where and when the items may be viewed prior to the auction, and shall state the time and place of the auction.

All sales must be completed on the day of the auction, and payment may be made only by cash, certified checks, cashier's check or money order.

On refusal or failure of the successful bidder to complete the sale as prescribed above, the sale may be made to the next highest bidder.

4306. OPEN MARKET SALES

Surplus supplies and equipment may be sold on the open market by the District Manager without regard to formal bidding procedures set forth in Section 4305 when, in his opinion, the individual estimated value of the supplies or equipment is five thousand dollars (\$5,000) or less; provided, however, that, whenever practicable, price offers shall be solicited either orally or in writing and the sale made to the highest responsible bidder.

4307. SALES TO OTHER PUBLIC AGENCIES

There is excepted from the provisions of this Article sales of surplus supplies and equipment to any other public agency created under the laws of the State or the United States government.

4308. SALES TO OFFICIALS, OFFICERS AND EMPLOYEES OF THE DISTRICT

Officials, officers, and employees, when not otherwise prohibited by law, may purchase surplus supplies and equipment offered for sale under the provisions of this Article. However, unless otherwise authorized by the Board of Directors, said purchases may only be made at public auction or public sale. The District Manager shall develop written procedures to ensure that all sales to District employees are bona fide "arm's length transactions."

ARTICLE 4. FORMAL BID PROCEDURES

The formal bidding procedures are as follows:

4400. NOTICE INVITING BIDS

A. Notice inviting bids shall include:

- i. A distinct description of the supplies, materials, equipment or services to be purchased;
- ii. The location where bid blanks, specifications and requests for proposals may be secured;
- iii. The time and place for opening bids;
- iv. A statement that the District has authority to reject any and all bids and may waive any minor technicality or variance found in a bid document.

B. The notice inviting bids shall be published at least fourteen calendar days before the date of opening of bids in a newspaper of general circulation printed or published in the District. Such notice may also be mailed to any vendor or provider which the District Manager has reason to believe may be in a position to provide the subject supplies, materials, equipment or services to the District.

4401. OPENING OF BIDS

Bids shall be opened in public by the District Manager at the time and place stated in the notice inviting bids. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than fifteen calendar days after the bid opening. Any bid which is received after the time specified in the notice shall be returned unopened.

4402. AWARD OF CONTRACT

Contracts shall be awarded by the Board of Directors to the lowest responsible bidder except as otherwise provided in this Article.

Award to Next Lowest Bidder-Failure to Execute Contract. The Board of Directors may, on refusal or failure of the successful bidder to execute the contract within ten days after the date of the notice of award of contract is mailed, unless the District is responsible for the delay, award it to the next lowest responsible bidder.

Award of Contract to the Next Lowest Bidder-Lowest Bidder Irresponsible-Notice and Hearing.

- A. The District Board, in its sole discretion, may reject the lowest monetary bid for purchases of supplies, materials, equipment or services upon a specific finding that the lowest monetary bidder is not responsible. To determine responsibility, the District Board may consider, among other things, the bidder's financial responsibility, level of experience and whether the bidder has failed to complete or deliver any supplies, materials, equipment or services in other projects.
- B. If the District Board rejects the lowest bid upon its determination that the lowest bidder is not responsible, the District shall:
 1. Give notice of the District Board's decision to the lowest monetary bidder, setting forth the reasons why the bidder is not considered the lowest responsible bidder;
 2. Give the bidder the opportunity to ask for a pre-award hearing before the District Board on the issue;
 3. If the hearing is requested, agendaize the matter before the District Board, giving written notice of such hearing to all bidders;
 4. After the hearing, the District Board shall make finding, supported by the evidence on the record as to the non-responsibility of the lowest monetary bidder.

4403. REJECTION OF BIDS-IDENTICAL BIDS-ABSENCE OF BIDS

The District Board, in its sole discretion, may:

- A. Reject any bids presented and re-advertise for new bids;
- B. Reject any bid that fails to meet the requirements of the formal bidding procedure in any respect;
- C. If two or more bids are the same and the lowest, the District Board may accept the one it chooses;
- D. If no bids are received, the District Board may direct the District Manager to purchase the supplies, materials, equipment or services without further adherence to the formal bidding procedure;
- E. Waive any minor irregularities or variances in any bid received.

ARTICLE 5. INFORMAL BID PROCEDURES

4500. AUTHORITY AND PURPOSE OF ARTICLE

This Article is adopted pursuant to the authority of Article 3 of Chapter 2, Part 3, Division 2 (commencing with Section 22000) of the California Public Contract Code and constitutes an "informal bidding ordinance" as described in Section 22034 of said Code. The purpose of this Article is to establish an informal bidding procedure applicable to certain contracts for public projects as a result of the District having elected, by resolution of the Sanitary Board, to become subject to the uniform construction cost accounting procedures promulgated by the State Controller.

4501. LIST OF QUALIFIED CONTRACTORS

The District Manager shall maintain a list of qualified contractors, identified according to categories of work. The list shall be developed and maintained in compliance with such minimum requirements as may be specified from time to time by the Commission.

4502. SIZE OF PROJECT; METHOD OF BIDDING

- A. Public projects of thirty thousand dollars (\$30,000.00) or less may be performed by the employees of the District or the District Manager by force account, by negotiated contract, or by purchase

order, or the District Manager may elect to follow the informal bidding procedure specified in Paragraph B of this Section.

- B. Public projects of one hundred twenty-five thousand dollars (\$125,000.00) or less may be let to contract by informal bidding procedures set forth in this Article.
- C. Public projects of more than one hundred twenty-five thousand dollars (\$125,000.00) shall, except as otherwise provided in this Article, be let to contract by formal bidding procedure.

4503. NOTICE INVITING INFORMAL BIDS

- A. Where the District proposes to award a contract for a public project pursuant to the informal bidding process, a notice inviting informal bids shall either be:
 - 1. mailed to all contractors for the category of work to be bid, as shown on the list of qualified contractors maintained by the District in accordance with Section 4501 of this Article; or
 - 2. mailed to the required construction trade journals for Santa Clara County designated by the Commission pursuant to Section 22036 of the Public Contract Code.
- B. At the discretion of the District Manager, additional notices inviting informal bids may be given by any or all of the following means:
 - 1. The notice may be mailed to both the qualified contractors and the construction trade journals;
 - 2. The mailed notice may be sent to additional contractors who are not on the District's list but are deemed by the District Manager to be qualified to perform the particular work out for bid;
 - 3. The notice may be mailed to any additional construction trade journals or other publications selected by the District Manager, including trade journals designated by the Commission as optional for Santa Clara County.
- C. All mailing of the notices to contractors and construction trade journals shall be completed not less than ten (10) calendar days before bids are due.
- D. The notice inviting informal bids shall describe the project in general terms and how to obtain more detailed information about the project, and shall state the time and place for submittal of bids.
- E. Notwithstanding the foregoing provisions of this Section, no mailing of a notice to contractors or construction trade journals shall be required where the District Manager determines that the product or service to be acquired by the District is proprietary.

4504. AWARD OF CONTRACTS

- A. Contracts for public projects of thirty thousand dollars (\$30,000.00) or less may be awarded by the District Manager.
- B. Contracts for public projects in excess of thirty thousand dollars (\$30,000.00) and not exceeding one hundred twenty-five thousand dollars (\$125,000.00), which are bid pursuant to the informal bidding procedure established by this Article, may be awarded by majority vote of the Sanitary Board.
- C. If all bids received are in excess of one hundred twenty-five thousand dollars (\$125,000.00), the Sanitary Board may, by adoption of a resolution by a four-fifths vote, award a contract for an amount not exceeding one hundred thirty-seven thousand five hundred dollars (\$137,500.00), to the lowest responsible bidder, if the Board determines that the District's original cost estimate for the project was reasonable.

4505. EMERGENCY CONTRACTS

The provisions of this Article shall in no way limit or restrict the ability of the District to perform emergency repair or replacement work without adopting plans, specifications, or working details, or giving notice for bids to let contracts, as authorized by Section 22035 of the Public Contract Code, and in

accordance with the emergency contracting procedures set forth in Chapter 2.5 (commencing with Section 22050) of the Public Contract Code.

ARTICLE 6: FILING OF CLAIMS AND ACTIONS AGAINST THE DISTRICT

4600. AUTHORITY

This Article is enacted pursuant to Section 935 of the California Government Code.

4601. FILING OF CLAIM REQUIRED

All claims against the District for money or damages not otherwise governed by the Government Claims Act, California Government Code Sections 900 et seq., or any other state or District law relating thereto (hereinafter referred to in this Article as "claims") shall be presented within the time, and in the manner, prescribed by Part 3 of Division 3.6 of Title 1 of the California Government Code (commencing with Section 900 thereof), as those provisions now exist or shall hereafter be amended, and as further prescribed by this Article.

4602. FORM OF CLAIM

All claims shall be made in writing and verified by the claimant or by the claimant's authorized representative, agent, or attorney-in-fact. No claim may be filed on behalf of a class of persons unless verified by every member of that class as required by this Section. All claims shall contain the information required by Government Code Section 910.

4603. CLAIM PREREQUISITE TO SUIT

In accordance with California Government Code Sections 935(b) and 945.6, all claims shall be presented as provided in this Article and acted upon by the District Board prior to the filing of any action on such claim and no such action may be maintained by a person who has not complied with the requirements of this Article.

4604. ACTION AGAINST DISTRICT OR DISTRICT EMPLOYEE

Any action brought against the District upon any claim shall conform to the requirements of Sections 940-949 of the California Government Code. Any action brought against an employee of the District shall conform to the requirements of Sections 950-951 of the California Government Code.

4605. SERVICE ON DISTRICT CLERK

The District Clerk is hereby designated as the authorized representative of the District to accept service of any claim, summons and complaint, subpoena, or other legal document required by law to be served upon the District.

ARTICLE 7: ANNEXATION AND/OR REORGANIZATION REQUIREMENTS

4700. APPLICATION FOR ANNEXATION

Property located outside the boundaries of the District for which the District but within the District's Sphere of Influence may be annexed to the District upon approval by the District Board and the Santa Clara County Local Agency Formation Commission ("LAFCo").

The annexation process shall be initiated by the property owner filing an application with LAFCo, upon such form as it may require, accompanied by a legal description and survey of the property. A copy of such application shall be furnished to the District. If the application has been signed by all of the property owners, the District Clerk is authorized to waive the requirement for written notice and consent to a determination of the proposal by LAFCo without notice of hearing.

The District Board shall review the application and may request that the annexation proceedings be terminated by LAFCo if the Board finds that the District, for any reason, is unable to effectively provide sanitary sewer service for the property. If the District Board determines that sanitary sewer service can be provided, the Board shall adopt a resolution approving the annexation and the District Clerk shall transmit a certified copy of such resolution to LAFCo.

4701. PAYMENT OF PROCESSING COSTS

At the time the application for annexation is submitted to the District for review, the applicant shall pay to the District a minimum application fee of \$600.00 or greater amount equal to the estimated costs that will be incurred by the District for processing the application, as determined by the District Manager, including the cost of preparing maps, legal descriptions, plans and specifications for sanitary sewer improvements, and the staff cost for preparing agenda reports, resolutions, and other documents related to the proposed annexation.

Upon completion of the annexation, the actual processing costs shall be determined by the District. If the actual costs are less than the estimate paid by the applicant, the excess shall be refunded by the District to the applicant; if the actual costs exceed the estimate, the applicant shall pay the deficiency to the District within 10 days after receipt of a billing and the annexation shall not be deemed to have been completed until such deficiency has been paid in full.

4702. PAYMENT OF CONNECTION FEES

As a requirement for connection of the annexed property to the District's sewer system, the owner of such property shall pay to the District the connection and permit fees as determined and charged in accordance with the provisions of this Code.

4703. CONDITIONS OF ANNEXATION

The District may approve a proposed annexation subject to such conditions and requirements as the Sanitary Board deems appropriate, which shall be set forth in the resolution transmitted to LAFCo. Such conditions may include, but are not limited to, any or all of the following:

- A. That the inhabitants of the annexed property shall be subject to the jurisdiction of the District, and shall have the same rights and obligations as if the property had been part of the District upon its original formation;
- B. That the inhabitants of the annexed property shall be liable for the payment of principal, interest, and other amounts which shall become due on account of any outstanding or then authorized but thereafter issued bonds, or other contracts or obligations of the District, and shall be subject to the levying or fixing and collection of all taxes, assessments, service charges and fees established by the District and subject to all present and future rates, rules, regulations, orders and ordinances of the District;
- C. That the inhabitants of the annexed property shall grant to the District such easements over the property as may be necessary for the District to provide sanitary sewer service.

4704. ADJUSTMENT OF COSTS AND FEES

The District Board reserves the right to adjust the above costs and fees or provide for additional terms and conditions at or before any meeting or public hearing on any annexation and/or reorganization.

CHAPTER V - CONSTRUCTION OF SEWERS

ARTICLE 1: GENERAL REQUIREMENTS

5100. MASTER PLAN

The District has adopted an official Master Plan for trunk systems within the District, which is on file and available for public inspection in the office of the District Engineer. Said Master Plan, and any future modifications and amendments thereto, is incorporated into this Code by reference and made a part hereof.

5101. STANDARD PLANS AND SPECIFICATIONS

Minimum standards for the construction of sewers within the District shall be in accordance with the Standard Plans (Details) and Specifications heretofore or hereafter adopted by the District, copies of which are on file and available to the public in the District office. The District Engineer shall have authority to modify the Standard Plans and Specifications whenever he deems such modifications to be necessary or appropriate to accommodate the requirements of the project, or construction conditions, or any physical or environmental circumstances.

"As-built" drawings, in electronic format (PDF) and the number of hard copies required by the District Engineer, showing the actual location of all mains, structures, Y's, laterals and cleanouts shall be filed with the District before final acceptance of the work.

5102. COMPLIANCE WITH REGULATIONS

Any person constructing a sewer within a public street shall comply with all applicable laws pertaining to the installation of sanitary sewers and any related activities, including cutting of pavement, opening, barricading, lighting and protection of trenches, backfilling and repaving thereof and shall obtain all permits and pay all fees required by the agency having jurisdiction prior to the issuance of a permit by the District. Where an encroachment permit is required to be obtained for sewer work to be performed within a public street, a copy of such permit or other evidence of the issuance thereof shall be provided to the District as a prerequisite to the issuance of any permit by the District for such sewer work.

5103. CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS (DIR)

All District work (including maintenance and construction projects, except for work performed under the Installers' Agreement prior to acceptance of said improvements by the District) requires compliance with the Prevailing Wage Law and subject to compliance monitoring and enforcement by the California Department of Industrial Relations, pursuant to Labor Code section 1771.4. Under California Labor Code section 1771.1, as amended by S.B. 854, a contractor may not bid, nor be listed as a qualified District contractor, for any bid proposal submitted for a public work unless the contractor and its subcontractors are registered and qualified to perform public work pursuant to section 1725.5 of the Labor Code. The Bidder and its Subcontractors must be registered and qualified to perform public work pursuant to section 1725.5 of the Labor Code, subject to limited legal exceptions under Labor Code section 1771.1.

In accordance with the provisions of Section 1773.3 of the Labor Code, District will provide notice to the Department of Industrial Relations (DIR) of the award of any public works contract subject to the requirements of Chapter 1 of the Labor Code, within five days of the award. The notice shall be transmitted electronically in a format specified by the DIR (see <https://www.dir.ca.gov/pwc100ext/>) and will include the name of the contractor, any subcontractor listed on the successful bid, the bid and contract award dates, the contract amount, the estimated start and completion dates, job site location, and any additional information the DIR specifies that aids in the administration and enforcement of this chapter.

ARTICLE 2: CONTRACTOR'S REQUIREMENTS

5200. CONTRACTOR'S REGISTRATION

It shall be unlawful for any person to install or construct any sewer for connection to, or make connection to, the District sewer system, who is not a master plumber or contractor, whichever is applicable, licensed to perform such work under the State Contractor's License Law. All such contractors must register with the District Manager prior to commencing or carrying out any such work within the District.

5201. CONTRACTOR'S INSURANCE

All contractors and installers shall procure and maintain for the duration of the contract, including any applicable warranty period, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work by the contractor or installer or its agents, representatives, employees or subcontractors. Unless otherwise permitted or required by the District Manager in writing, such insurance shall conform to the following specifications:

A. **Minimum scope and limits of insurance.**

- (1) General liability, occurrence form (including operations, products and completed operations): \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the project/location or the general aggregate limit shall be twice the required occurrence limit.
- (2) Automobile liability: \$1,000,000 per accident for bodily injury and property damage.
- (3) Workers' compensation insurance: as required by State law.
- (4) Employer's liability: \$1,000,000 per accident for bodily injury or death.

B. **Deductibles.** Any deductibles or self-insured retentions must be declared to and approved by the District. At the option of the District, either the insurer shall reduce or eliminate the deductible or self-insured retention as respects the City, or the contractor shall provide a financial guarantee satisfactory to the District guaranteeing payment of losses, investigation and defense costs, and other expenses allocated to the deductible or self-insured retention.

C. **Insurance policy provisions.** The general liability and automobile liability policies shall contain, or be endorsed to contain, the following provisions:

- (1) The District, the District Manager, the County, and the city in which the work will be performed, and their respective officers, officials, employees, agents, and volunteers ("Insured Parties") shall be named as additional insureds.
- (2) For any claims related to the work, the contractor's insurance coverage shall be primary as respects the Insured Parties and any insurance or self-insurance maintained by any of the Insured Parties shall be excess of the contractor's insurance and shall not contribute with it.
- (3) The contractor's insurance shall apply separately to each of the Insured Parties against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (4) Each insurance policy required by this Section shall be endorsed to state that coverage shall not be reduced, suspended or canceled by either party except after thirty (30) days prior written notice has been given to the District.

D. **Verification of coverage.** The contractor shall furnish the District with original certificates of insurance or endorsements evidencing coverage required by Article 2, Section 5201 of this Chapter, in form and substance satisfactory to the District Manager. The certificates shall be

received and approved prior to commencement of any work. At the request of the District, the contractor shall provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by this Section.

- D. **Subcontractors.** The contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All subcontractors shall be subject to the insurance requirements set forth in this Section.

5202. SECURITY FOR PERFORMANCE OF WORK

All contractors or installers shall file with the District Manager a Faithful Performance Bond and a Labor and Material Bond, each in the amount of 100% of the contract for District let jobs and 100% of the District Engineer's estimate for installer let contracts. Said Bonds are to be on forms provided or approved by the District, and shall remain in effect for a minimum of one year after acceptance of the improvements by the District Board or the District Engineer and may not be cancelled until released by the District. Upon approval by the District Board, alternative security may be provided instead of performance and payment bonds, including an irrevocable letter of credit or an irrevocable assignment of a bank account, certificate of deposit, or negotiable securities, all such documents to be in form and substance approved by the District Counsel.

5203. INSPECTIONS

All sanitary sewer construction work conducted within the District shall be subject to inspection by the District Engineer or his representative. The District Engineer may specify certain stages of the work at which inspection approval by the District Engineer must be granted before the work is allowed to proceed.

No construction shall be covered until it has been inspected and approved by the District Engineer. After approval, the contractor shall backfill any trench without delay and restore the surface to its original condition. Construction that has been covered without approval of the District Engineer shall, upon demand by the District Engineer, be uncovered for inspection. In all cases where inspection is required, the contractor shall give at least two (2) business days advance notice to the District Engineer stating the time when the work will reach the stage of completion at which the inspection must be conducted.

5204. CORRECTION OF DEFECTS

All persons performing work connected with the sanitary sewer system shall be held strictly responsible for any and all acts of agents, subcontractors, and employees in connection with said work. The contractor or installer shall be solely liable for any defects in the performance of its work, or any failure of the improvements that may be caused by such defects.

In the event any construction, when inspected by the District, is found to be defective, the Contractor shall take immediate steps to correct such defects to the satisfaction of the District Engineer.

5205. INDEMNIFICATION

The contractor or installer shall indemnify, defend, and hold the District, the District Manager, the County, and the city in which the work will be performed, and their respective officers, officials, employees, agents and volunteers ("Indemnitees"), free and harmless from any and all causes of action, claims, liabilities, obligations, judgments or damages, including reasonable attorney's fees and costs of litigation, arising out of the contractor's performance of its obligations under any agreement with the District or out of the operations conducted by the contractor related to the District's sewer system, including the District's active or passive negligence, except for loss or damage arising from the sole negligence or willful misconduct of the District. In the event the District or other Indemnitee is made a party to any action, lawsuit, or other adversarial proceeding arising from the contractor's performance of the work, the contractor shall provide a defense to the District and Indemnitees or, at the District's option, reimburse the District or the Indemnitees their costs of defense, including reasonable attorney's fees, incurred in defense of such claims.

ARTICLE 3: CONSTRUCTION OF SEWERS

5300. AUTHORIZATION TO CONSTRUCT SEWERS

Authorization to construct sewers that are or will become a part of the District's sewer system and authorization to connect any existing sewers to the District's sewer system must be obtained from the District.

Request for authorization is to be made in the office of the District Manager. All construction shall be in accordance with the Standard Plans, Specifications and Master Plan of the District.

5301. PLANS, PROFILES AND SPECIFICATIONS

Plans, profiles and specifications for main or sub-main sewers shall be prepared at the expense of the installer, by a civil engineer licensed in the State of California and said plans, profiles and specifications shall be approved by the District Manager/Engineer. If approved by the District Engineer, plans for individual lateral sewer construction may be prepared by the applicant. Otherwise, said plans shall be prepared by a licensed civil engineer.

5302. PAYMENT OF INSPECTION FEES

An installer shall pay in advance all necessary plan checking and inspection fees. The District shall have the right to charge, and the installer shall pay, the necessary administrative and engineering fees incurred by the District for work performed. Inspection fees are non-refundable, unless otherwise stated in the Installer's Agreement.

5303. CONTRACT FOR CONSTRUCTION

The installer shall call for his own bids, and let his own contracts, but he shall not let any such contracts until after receiving written approval of the plans and specifications from the District.

5304. INSTALLER'S AGREEMENT

An installer shall, prior to the performance of any construction work, enter into an Installer's Agreement with the District. Installer's Agreement may cover preliminary development phase, design and construction phase which shall contain, but not be limited to, the following provisions:

- A. Construction of sewers in accordance with approved Plans, Profiles and Specifications.
- B. Obtaining of necessary rights-of-way and easements, and granting same to District.
- C. Payment by the installer of all direct and indirect construction costs.
- D. Transfer of title to all sewers and appurtenances to the District following completion of the improvements and approval thereof by the District Engineer.
- E. Insurance coverage in accordance with the requirements set forth in Article 2, Section 5201 of this Chapter.
- F. Indemnification of the District
- G. The furnishing of required security for performance of the work
- H. Payment of all fees owed to the District, including District administration, engineering, plan checking and inspection.
- I. Such other terms and provisions as the District may require.

5305. SEWER LATERAL

Sewer lateral must be constructed to serve each parcel of land or building in the development. House sewers shall not be connected to these lateral sewers until permits for connection have been issued by the District Manager.

5306. OVERSIZE AND OFF-TRACT SEWERS

Oversize and off-tract sewers may be required by the District to comply with the Master Plan. In this event, consideration will be given to a reimbursement agreement for excess costs pursuant to Article 4 of this Chapter.

ARTICLE 4: REIMBURSEMENT OF EXCESS COSTS

5400. EXCESS COSTS

Excess costs equal the sum of the following:

- A. **Oversizing.** - The difference between the estimated cost of installing the size of line required to serve the installer's needs (8-inch minimum) and the actual certified cost of installing a larger line, where a line of greater than the size line required to serve the installer's needs, was installed by installer at the direction of the District.
- B. **In Tract.** – Where an installer has installed either an 8-inch line or 6-inch sewer line and related appurtenances along the boundary of the installer's property and such line is subject to potential future use by one or more other properties, the excess cost shall be one-half of the certified cost of installing such boundary line.
- C. **Off Tract.** - One hundred percent (100%) of the certified cost of installing all sewer lines and appurtenances beyond the property line of installer where such sewer lines are not used by the installer to serve its own needs and have been extended wholly outside the installer's property only for the purpose of potential future use by one or more other properties.

5401. APPROVAL OF EXCESS COST BY DISTRICT

Upon completion of the work for which reimbursement for excess costs will be claimed and acceptance of the improvements by the District Engineer, the installer shall furnish to the District Manager a detailed certification of all construction costs incurred by the installer for the sewer improvements, including the cost of any design, engineering, plan check, or inspection services provided by the District and charged to the installer. The cost certification shall be supported by such invoices, cancelled checks, and other documentation as the District may require verifying the accuracy and legitimacy of all costs claimed by the installer. Upon approval of the cost certification, the District Manager shall determine the excess costs that may be reimbursed to the installer. The determination of excess cost by the District Manager shall be final and conclusive.

5401. REIMBURSEMENT AGREEMENT

The District and the installer shall enter into a reimbursement agreement, prepared or approved by the District Counsel, to confirm the amount of the final certified costs and the portion thereof that will be subject to reimbursement, as determined by the District Manager pursuant to Section 5401 of this Article. The agreement shall identify the other properties that will benefit from the sewer improvements constructed by the installer and the share of excess cost that will be allocated to each of these properties.

The term of the reimbursement agreement shall not exceed ten (10) years if the amount of excess cost to be reimbursed is less than \$500,000, or fifteen (15) years if the amount of excess cost to be reimbursed exceeds \$500,000.

5402. COLLECTION OF REIMBURSEMENT FUNDS

In the event the District receives an application during the term of the reimbursement agreement for connection to the District's sewer system by any of the properties identified in the reimbursement agreement as having benefited from the sewer improvements constructed by the installer, the District shall require, as condition for granting a connection permit, that the benefiting property pay its share of the excess cost as part of the connection fees payable to the District pursuant to Chapter 7, Article 5, Section 7501 of this Code. Such payment shall promptly be reimbursed by the District to the installer, or to the party entitled to receive the same.

5403. TERMINATION OF RIGHT TO REIMBURSEMENT

The installer shall be entitled to receive reimbursement payments for excess costs until one of the following shall first occur:

- A. **Total Reimbursement.** - Disbursements to the installer equal to the total of excess costs specified in the reimbursement agreement.
- B. **Expiration of Agreement.** - Expiration of the term of the reimbursement agreement. The District shall not be responsible for advising the installer of the expiration date.
- C. **Withdrawal.** - The withdrawal of the sewer improvements that were the subject of the reimbursement agreement, or detachment of the property on which such improvements have been constructed from the jurisdiction of the District. The District shall be under no obligation to inform installer of such withdrawal.

CHAPTER VI - USE OF SEWERS

ARTICLE 1: PROVISIONS FOR USE OF SEWERS

6100. PURPOSE

The purpose of the Provisions of this Chapter is to:

- A. Provide for and regulate the disposal of sanitary sewage into the sanitary sewer system of the District in such manner and to such extent as is reasonably necessary to maintain and increase the ability of such system to handle and dispose of sanitary sewage;
- B. Provide for and regulate the disposal of industrial wastes into the sanitary sewer system of the District in such manner and to such extent as may be reasonably necessary to maintain and increase the ability of such system to handle and dispose of industrial waste without decreasing the ability of said system to handle and dispose of all sanitary sewage;
- C. Prevent the introduction of pollutants into the sanitary sewer system which will pass through the treatment works of the San Jose/Santa Clara Water Pollution Control Plant or otherwise be incompatible with such works or interfere with the ability of the Plant to treat, discharge and recycle wastewater, or to use or dispose of Plant bio-solids;
- D. Improve opportunities to recycle and reclaim treated effluent and wastewater sludge;
- E. Protect the physical structures of said sewerage system and the efficient functioning of its component parts;
- F. Protect the District and its personnel, and preserve and protect the health, safety and comfort of the public;
- G. Enable the District to comply with all applicable and compatible laws, rules, regulations and orders of the State of California and of the United States;
- H. Protect the environmental health of San Francisco Bay;
- I. Provide for the charging and collection of various fees and other charges reasonably necessary for the acquisition, construction, reconstruction, maintenance and operation of the sanitary sewer system.

ARTICLE 2: SEWER USE REGULATIONS

6200. LIMITATIONS ON POINT OF DISCHARGE

No person shall discharge any substances directly into a manhole or other opening in a District sewer other than through a District-approved sewer connection.

6201. DISCHARGE INTO STORM DRAIN PROHIBITED

It shall be unlawful to discharge any sewage, industrial waste or other polluted waters into any storm drain or natural outlet or channel without a valid NPDES permit.

6202. REGULATION OF TRUCKED OR HAULED WASTE

No person shall cause, allow, or permit to be discharged into the sanitary sewer system any trucked or hauled waste, except at a site specifically designated in a wastewater discharge permit or a receiving station permit.

6203. PUBLIC NUISANCE

The discharge of unscreened garbage, fruit, vegetable, animal or other solid industrial wastes into any part of the sanitary sewer system, in violation of any provision of this Operations Code, is hereby declared to be a public nuisance.

6204. PROTECTION FROM ACCIDENTAL DISCHARGE

- A. Each industrial user shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this chapter into either the storm sewer or sanitary sewer systems.
- B. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the industrial user's expense.
- C. All industrial users shall notify the District and Environmental Service Department by telephone or in person within one (1) hour of becoming aware of accidentally discharging wastes of reportable quantities as determined in 40 CFR 117 or discharge of any substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261, to enable countermeasures to be taken by the city to minimize damage to the sanitary sewer system, plant, treatment processes, and the receiving waters. If hazardous waste is discharged, industrial user shall be subject to all requirements in 40 CFR 403.12(p).
- D. Telephone notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement furnished to both the District and the Environmental Services Department describing the causes of the accidental discharge and the measures being taken to prevent future occurrences.
- E. Notification to the District and the Environmental Services Department will not relieve industrial users of notification requirements under any other federal, state or local law, nor of liability for any expense, loss or damage to the sanitary sewer system, Plant or treatment process or receiving waters or for any fines or penalties imposed on the city on account thereof under applicable provisions of state or federal law.
- F. All permitted facilities must maintain a spill control plan for protection against accidental discharges, including but not limited to, berming of chemicals and waste materials. The review of such plans and procedures shall not relieve the industrial user from the responsibility of modifying the facility as necessary to provide the protection necessary to meet the requirements of this Code or other state or federal regulations.
- G. This plan must be reviewed and revised as needed within thirty (30) days after an accidental discharge has occurred or as required by the Director.

6205. PRETREATMENT BY OWNER

Whenever deemed necessary by the District Manager or the Director, the owner of any private premises shall, at his own expense, provide such treatment or take such other measures as shall be required in order to reduce objectionable characteristics contents or rate of discharge of waters or wastes being deposited in the sanitary sewer system so that the same may be received therein without any damage to the sanitary sewer system or any undue interference with its operation and without any hazard of any kind to humans or animals.

6206. MONITORING FACILITIES

- A. The District Manager or the Director may require any discharger to the Sanitary Sewer System to construct, at the Industrial User's own expense and at an approved location, monitoring facilities to allow inspection, sampling, and flow measurement of the building Sewer or internal drainage systems.
- B. The monitoring facilities, sampling, and measurement equipment and access thereto shall be maintained at all times in a safe and proper operating condition at the expense of the discharger.
- C. Any required monitoring facilities shall be specified in the Wastewater Discharge Permit issued pursuant to this Chapter.
- D. Dischargers shall retain sufficient wastewater in their sample box at all times to allow sample collection representative of the last wastewater discharge.

6207. STORM AND OTHER WATERS

- A. No person shall discharge, cause, allow or permit any storm water, surface water, groundwater, subsurface drainage, or roof to be discharged into the Sanitary Sewer System or any part thereof without a wastewater discharge permit.
- B. A Wastewater Discharge Permit for the discharge of, ground water, subsurface drainage, surface water, roof water, or stormwater shall only be issued if there is no reasonable method for disposal of such water.
- C. If permitted, discharge of ground water, subsurface drainage, surface water, roof water, or stormwater shall be subject to all applicable requirements of this Operations code, including but not limited to the payment of applicable fees and such terms and conditions as the District Manager or the Director may impose in the Wastewater Discharge Permit.
- D. Outdoor trash enclosure area may be discharged into sanitary sewer system, provided with the sand trap system as approved by the District. Area shall be limited only to the trash enclosure area.

6208. COOLING AND UNPOLLUTED WATER

No person shall discharge, or cause, allow, or permit to be discharged into the sanitary sewer system or any part thereof any unpolluted cooling water or unpolluted industrial process water.

6209. OBSTRUCTING OR INJURIOUS SUBSTANCES

No person shall discharge, or cause, allow, or permit to be discharged, thrown, or deposited into the sanitary sewer system or any part thereof, or into any plumbing fixture or private sewer or drain connected either directly or indirectly to the sanitary sewer system, any substance of any kind whatsoever tending to obstruct or injure the sanitary sewer system, or to cause a nuisance or hazard, or which will in any manner interfere with the proper operation or maintenance of the sanitary sewer system.

6210. COPPER-BASED CHEMICAL COMPOUNDS

- A. No person shall discharge, or cause, allow or suffer to be discharged, any chemical compound containing greater than five percent (5%) copper by weight, to control roots or for any other purpose into the sanitary sewer system or any part thereof, or into any plumbing fixture or sewer which discharges, either directly or indirectly, into the sanitary sewer system.
- B. No person shall display in any public place any chemical compound containing greater than five percent (5%) copper by weight, to control roots or for any other purpose, without first providing clear and reasonable written warning that discharge of said compound into the sanitary sewer system or any part thereof, or into any plumbing fixture or sewer or drain which discharges, either directly or indirectly, into the sanitary sewer system is prohibited by ordinance of the Cupertino Sanitary District.
- C. For the purposes of this Section, warning may be provided by posting a decal, placard or sign at the point of display of the compound. Any warning given under this Section shall be reviewed and must be approved by the District Manager.
- D. For purposes of this Section only, public place shall be defined as any building or area (including, without limiting the generality of the foregoing, any store or business establishment) where copper based chemical compounds may be viewed and obtained by members of the general public.

6211. FLAMMABLE OR EXPLOSIVE SUBSTANCES

No person shall discharge, or cause, allow, or permit to be discharged into the sanitary sewer system any gasoline, benzene, naphtha, fuel oil, or any flammable liquid, solid, vapor, or gas or other substance, including but not limited to any substance having a closed cup flash point of less than one hundred forty degrees Fahrenheit (140°F) or sixty degrees Centigrade (60°C), using the test methods specified in Section 261.21 of Title 40 of the Code of Federal Regulations.

6212. HOT SUBSTANCES

No person shall discharge, or cause, allow, or permit to be discharged into the sanitary sewer system or any part thereof, any liquid, solid, vapor, gas, or thing having or developing a temperature of 150°F or more, or which may cause the temperature at the sewage treatment plant to exceed 104°F.

6213. TOXIC GASES, VAPORS OR FUMES

No person shall discharge, or cause, allow, or permit to be discharged into the sanitary sewer system any substance of any kind whatsoever which results in the presence of toxic gases, vapors or fumes within the system in a quantity that may cause acute health and/or safety problems for workers in the sanitary sewer system.

6214. SOLID OR VISCOUS MATTER

No person shall discharge, deposit or throw, or cause to be discharged, deposited, or thrown into the sanitary sewer system or any part thereof, any ashes, cinders, pulp, paper, sand, cement, mud, straw, shavings, metal, glass, rags, feathers, tar, asphalt, resins, plastics, wood, animal hair, paunch manure, or any heavy solid or viscous substance capable of causing obstruction to the flow in the sanitary sewer system or any part thereof, or which would interfere with the proper operation of the sewage treatment plant or the treatment of sewage or industrial wastes.

6215. CORROSIVE MATTER

No person shall discharge, or cause, allow or permit to be discharged into the sanitary sewer system or any part thereof, any liquid, solid, vapor, gas, or thing having a pH lower than six (6) or equal to or greater than twelve and on-half (12-1/2) or having any other corrosive property capable of causing damage or hazard to the sanitary sewer system or any part thereof, or to any personnel operating, maintaining, repairing, or constructing said sanitary sewer system or any part thereof, or working in or about said system.

6216. INTERFERING SUBSTANCES

A. No person shall discharge, cause, allow or permit to be discharged into the sanitary sewer system or any part thereof, any industrial waste containing any of the following toxic substances exceeding the concentrations set forth below:

Toxic Substance	Standard Discharger Maximum Allowable Concentration	Low Flow Discharger Maximum Allowable Concentration
Antimony	5.0 mg/l	5.0 mg/l
Arsenic	1.0 mg/l	1.0 mg/l
Beryllium	0.75 mg/l	0.75 mg/l
Cadmium	0.7 mg/l	0.7 mg/l
Chromium, Total	1.0 mg/l	1.0 mg/l
Copper	2.3 mg/l	2.7 mg/l
Cyanides	0.5 mg/l	0.5 mg/l
Lead	0.4 mg/l	0.4 mg/l
Mercury	0.010 mg/l	0.010 mg/l
Nickel	0.5 mg/l	2.6 mg/l
Phenol & derivatives	30.0 mg/l	30.0 mg/l
Selenium	1.0 mg/l	1.0 mg/l
Silver	0.7 mg/l	0.7 mg/l
Zinc	2.6 mg/l	2.6 mg/l

B. No person shall discharge, cause, allow, or permit to be discharged into the sanitary sewer system or any part thereof, any toxic or poisonous substances or any other pollutant, including

biochemical oxygen demand, in sufficient quantity to injure or cause an interference with the sewage treatment process or pass through the plant, or in sufficient quantity to constitute a hazard to humans or animals, or in sufficient quantity to create a hazard for humans, or aquatic life in any waters receiving effluent from the sanitary sewer system, or which may create a hazard in the use or disposal of sewage sludge.

- C. All samples, both grab and composite, shall demonstrate compliance with the above limits.
- D. Any industrial user that violates any of the interfering substances limits must resample and submit sample reports for all pollutants in violation of any applicable permit limits or any other pollutants as required by the Director within thirty (30) days of becoming aware of the violation.

6217. PROHIBITION ON USE OF DILUTING WATERS

No Industrial User shall ever increase the use of process water, or in any way use diluting waters as a partial or complete substitute for adequate treatment, or to meet local limits or achieve compliance with a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or Requirement.

6218. SUSPENDED SOLIDS; DISSOLVED MATTER

No person shall discharge, or cause, allow or permit to be discharged into the sanitary sewer system or any part thereof, any liquid containing suspended solids or dissolved matter of such character and quantity that unusual attention or expense is required to handle, process or treat such matter at the sewage treatment plant.

6219. NOXIOUS OR MALODOROUS MATTER

No person shall discharge, or cause, allow or permit to be discharged into the sanitary sewer system or any part thereof, any solid, liquid, vapor, gas, or thing which is so malodorous or noxious that their discharge into the sanitary sewer system would cause a public nuisance.

6220. RADIOACTIVE MATTER

No person shall discharge, cause, allow, or permit to be discharged, any radioactive waste into the sewer system, except, that:

- A. Persons authorized to use radioactive materials by the State Department of Health or other governmental agency empowered to regulate the use of radioactive materials may discharge, cause to be discharged, or permit to be discharged such wastes, provided that such wastes are discharged in strict conformance with the California radiation control regulations (California Code of Regulations, Title 17, Chapter 5, Subchapter 4), and federal regulations and recommendations for safe disposal of such wastes; and
- B. The persons acting does so in compliance with all applicable rules and regulations of all other regulatory agencies having jurisdiction over such discharges.

6221. COLORED MATTER

No person shall discharge, or cause, allow or permit to be discharged into the sanitary sewer system or any part thereof, any wastewater with objectionable color not removed in the treatment process such as, but not limited to, dye wastes and vegetable tanning solutions.

6222. GARBAGE

No person shall discharge, deposit, or throw, or cause, allow or permit to be discharged, deposited, or thrown into the sanitary sewer system of the District, or any part thereof, any garbage, or any fruit, vegetable, animal or other solid material from any food-processing plant or other industrial plant or retail grocery store, irrespective of whether or not the same shall have been first passed through a mechanical grinder, and no person shall install, operate, use or maintain upon the premises of any food processing plant, or any other industrial plant or retail grocery store, any mechanical grinder or waste

grinder that is connected directly or indirectly to the sanitary sewer system of the District, or any part thereof.

No person shall discharge, deposit, or throw, or cause, allow or permit to be discharged, deposited; or thrown into the sanitary sewer system or any part thereof, any garbage or fruit, vegetable, animal or other solid kitchen waste material resulting from the preparation of any food or drinks, in any dwelling, restaurant, or eating establishment, unless the same shall have first been passed through a mechanical garbage or waste grinder in conformance with the applicable provisions of the Plumbing and Electrical Codes of the entity having jurisdiction.

6223. GREASE

- A. No person shall discharge, or cause, allow, or permit to be discharged into the sanitary sewer system any liquid or other waste containing Grease in excess of 150 parts per million by weight.
- B. No person shall discharge, cause, allow, or permit any Grease discharge from a Food Service Establishment into the sanitary sewer system, unless such discharge has first been processed through an approved Grease Control Device.
- C. No person shall discharge, cause, allow, or permit to be discharged any Yellow Grease, or any waste or mixed material mixed with Yellow Grease, into the sanitary sewer system from a Food Service Establishment. No Yellow Grease from a Food Service Establishment shall be mixed with Grease Trap or Grease Interceptor waste.

6224. INSTALLATION OF GREASE CONTROL DEVICES

- A. Any Food Service Establishment, or other type of business or establishment where Grease or other viscous, obstructing, or objectionable materials, including automatic dishwasher, may be discharged into a public or private sewage main or disposal system, shall have a Grease Control Device and related plumbing of a size and design approved by the District Manager or Director.
 - 1. Grease Interceptors shall meet the following minimum requirements:
 - a. Designed retention time of no less than 30 minutes.
 - b. The effluent from the device must flow through an approved sample box.
 - c. Installed per manufacturer's specifications.
 - d. At least two (2) manholes, situated so all standpipes can be fully observed, and all internal surfaces can be reached, without confined space entry.
 - e. Double-sweep clean-outs, on the interceptor inlet and sample box outlet.
 - f. Shall meet the specifications and be constructed in accordance with the provisions of the applicable building codes.
 - 2. Grease Traps shall meet the following minimum requirements:
 - a. No injection port for chemicals or bacteria.
 - b. Installed per manufacturer's specifications.
 - c. Appropriate flow restrictors, whether integral or external to the device, must be installed.
 - d. Shall meet the specifications and be constructed in accordance with the provisions of the applicable building codes.
 - 3. Mechanical Grease Removal Devices shall be installed in accordance with manufacturer's specifications.
- B. Each grease removal device shall be so installed and connected that it shall be at all times easily accessible for inspection, sampling, cleaning and removal of Grease, and other matter from all surfaces.
- C. A Grease Control Device should be situated on the discharger's premises except when such a location would be impractical or cause undue hardship on the discharger. The District may,

subject to the issuance of an encroachment permit by the entity having jurisdiction, allow the device to be installed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

- D. Waste discharge from fixtures and equipment in establishments which may contain Grease or other objectionable materials including, but not limited to, scullery sinks, pot and pan sinks, dishwashers, food waste disposals, soup kettles, and floor drains located in areas where such objectionable materials may exist, shall be drained into the sanitary waste through the Grease Control Device unless otherwise approved by the District Manager provided, however, that toilets, urinals, wash basins, and other fixtures containing fecal material shall not flow through the grease removal device.

6225. MAINTENANCE AND OPERATION OF GREASE CONTROL DEVICES

- A. Grease Control Devices shall be maintained in efficient operating condition by periodic removal of the accumulated Grease. The use of chemicals, bacteria, enzymes or other additives that have the effect of emulsifying or dissolving Grease is prohibited unless specifically authorized by the District Manager or Director in writing. No accumulated grease shall be introduced into any drainage piping or public or private sewer.
- B. Grease Control Devices shall be cleaned on a sufficient frequency to prevent objectionable odors, surcharge of the Grease Control Device, or interference with the operation of the sanitary sewer system.
 - 1. Grease Traps shall be cleaned at least one every thirty (30) days.
 - 2. Grease Interceptors shall be cleaned once every ninety (90) days.
 - 3. Mechanical Grease Removal Devices must be maintained in a manner and frequency consistent with manufacturer specifications and guidance.
 - 4. Grease Control Devices shall be cleaned when their last chamber is filled to twenty-five percent (25%) or more of capacity with Grease or settled solids. Grease Interceptors with a sample box shall be cleaned immediately when grease is evident in the sample box.
 - 5. Grease Control Devices shall be cleaned by being pumped dry and all accumulated sludge on all surfaces shall be removed by washing down the sides, baffles, and tees. No water removed from the device during cleaning shall be returned to the Grease Control Device.
- C. District Manager or Director may grant an exception to the requirements of subsections B.1 and B.2 where the District Manager or Director finds, based on evidence presented by the discharger, that a less frequent cleaning schedule will be sufficient to assure that not more than twenty-five percent (25%) of the capacity of the Grease Control Device will be filled with Grease or settled solids.
- D. All dischargers shall implement Best Management Practices in their operations to minimize the discharge of Grease to the sanitary sewer system.
- E. Dischargers shall maintain records on site for a period of at least 3 years as follows:
 - 1. Dischargers with an installed Grease Control Device shall maintain records showing that the Grease Control Device has been properly maintained and cleaned as required by subsections A and B; and
 - 2. Food Service Establishments shall maintain records showing the following related to all Grease hauled off site: date and time material removed off site; volume removed; hauler name; truck license number, type of Grease removed, and final destination of material collected.
- F. Abandoned grease removal devices shall be emptied and filled as required for abandoned septic tanks.

6226. SCREENED INDUSTRIAL WASTES

- A. No person shall discharge, or cause, allow or permit to be discharged into the sanitary sewer system or any part thereof, any garbage, or any fruit, vegetable, animal, or other solid industrial wastes resulting from the processing, packaging, or canning of fruits, vegetables, or other foods or products, unless such wastes have first been passed through screens having openings not exceeding 1/32 of an inch in dimension, provided that the District Manager, by written permission, may authorize the discharge into the sanitary sewer system of such wastes if they are first passed through screens having larger openings if the District Manager is satisfied that such larger openings will provide screening efficiency and effectiveness equal or better than that provided by the above-specification openings of 1/32 of an inch in dimension.
- B. Each person who discharges, or causes, allows, or permits to be discharged into the sanitary sewer system or any part thereof, any such wastes resulting from the processing, packaging, or canning of fruits, vegetables, or other foods or products, shall install within or upon his premises from which such wastes are discharged, before such discharge of such wastes is made into said sanitary sewer system or any part of such system, and thereafter maintains in good operating order, screens as hereinabove specified and appurtenances thereto, including but not limited to all necessary conveyors and elevators, all in sufficient quantity and of sufficient size and quality to continuously and effectively screen not less than 100% of the peak hydraulic and solids loading imposed on such screens and appurtenances during any processing period.
- C. No person shall discharge any such screened wastes into said sanitary sewer system, or any part of said system, unless and until he shall obtain from the District a Wastewater Discharge Permit granting approval to do so. The District Manager may require such a person to provide to the District Manager a report prepared by a registered professional engineer which shows, to the satisfaction of the District Manager, that the provisions of this chapter have been complied with by such person before the Wastewater Discharge Permit is granted, and in no event shall the District Manager issue such Permit until he is satisfied that the provisions of this Section have been complied with by such person. The District Manager shall not issue such Permit if any such wastes cannot be processed successfully by the physical and biological processing units of the Water Pollution Control Plant.
- D. Any and all equipment, sewers, pipelines, or other facilities capable of discharging any garbage, fruit, vegetables, animal, or other solid industrial wastes resulting from the processing, packing, or canning of fruits, vegetables, or other foods or products, into said sanitary sewer system or any part thereof, before such wastes have been screened as required by paragraph (A) above, shall be locked, closed and sealed by the District Manager or his authorized representative. Each person operating such equipment, sewers, pipelines, or other facilities shall install therein, at his own expense and cost, such valves or other devices or modifications thereto, as may be necessary to enable the District Manager to carry out the provisions of this paragraph (D). No person shall break any such lock or seal, and no person shall discharge, or cause, allow or permit to be discharged into any such equipment, sewers, pipelines, or other facilities capable of discharging such industrial wastes into said sanitary sewer system or any part thereof, any unscreened industrial wastes without first having been issued a Wastewater Discharge Permit.

6227. UPSET - REBUTTAL

The following circumstances may be raised as an affirmative defense to an action brought for noncompliance with categorical pretreatment standards:

- A. The industrial user can demonstrate through properly signed, contemporaneous operating log, or other relevant evidence that:
- B. The industrial user can identify the cause(s) of the Upset;
- C. When the upset occurred, the facility was being operated in a prudent and workman-like manner, and in compliance with applicable operation and maintenance procedures;

- D. The industrial user has submitted the following information to the San Jose-Santa Clara Regional Wastewater Facility:
1. A description of the discharge to the San Jose-Santa Clara Regional Wastewater Facility and the cause of the noncompliance;
 2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 3. Steps being taken and/or planned to be taken to reduce, eliminate, and prevent recurrence of the noncompliance.
- E. The industrial user shall report the information specified in subsection 6227.D.3 to the District Manager or designee within twenty-four (24) hours of becoming aware of the Upset, and provide written notice within five (5) days of becoming aware of the Upset.
- F. The industrial user seeking to establish the occurrence of an Upset as an affirmative defense shall have the burden of proof.
- G. The industrial user shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. The requirement under this Section applies even in a situation where the primary source of power of the treatment facility is reduced, lost or fails.

6228. COMPLIANCE WITH REGULATIONS BY INDUSTRIAL USERS

No Industrial User shall discharge, cause, allow or permit a discharge, into the Sanitary Sewer System in violation of any federal or state regulation regulating discharges by such Users, including but not limited to the Federal Pretreatment Regulations found in Title 40 of the Code of Federal Regulations.

6229. DISPOSAL OF UNACCEPTABLE WASTE

A "California Hazardous Waste Manifest" form must be completed for material disposed of at a Class 1 dump site and a copy furnished to the District Manager upon request.

6230. RESPONSIBILITY

The primary responsibility for enforcement of the provisions of this Code shall be vested in the District Manager or agents of the District as he shall designate and, provided further, that field inspectors or other employees of the District and the San Jose-Santa Clara Regional Wastewater Facility are hereby authorized to act as agents of the District for and on behalf of the District Manager, with the power to inspect and issue notices for violations of this Code.

6231. RECORD KEEPING

All Industrial Users subject to the reporting requirements of this chapter shall retain and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, and any additional records of information obtained pursuant to monitoring activities undertaken by the Industrial User independent of such requirements. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any enforcement action concerning the industrial user, or where the industrial user has been specifically notified of a longer retention period by the Director.

6232. FALSIFICATION OF INFORMATION

No connector shall knowingly make any false statement, representation, record, report, plan or other document or knowingly tamper with or render inaccurate any monitoring device or equipment installed or operated pursuant to this Operations Code, ordinance or of any permit issued under this Title. In addition to any punishment or remedy provided by law, any such falsification or tampering shall be grounds for revocation of any permit issued under this Code.

6233. POWER TO INSPECT

- A. The District Manager and other duly authorized employees and agents of the district or the City of San Jose bearing credentials and identification shall have the right to access upon all properties for the purpose of inspecting any sewer connection, including all discharge connections of roof and surface drains and plumbing fixtures; inspecting, observing, measuring, photographing, sampling, and testing the quality, consistency, and characteristics of sewage and industrial wastewaters being discharged into any public sewer; and inspecting and copying any records relating to quantity and quality of wastewater discharges, including but not limited to water usage and effluent discharged, chemical usage, and hazardous waste records.

- B. The District Manager may terminate service or revoke the permit of any person who has discharged wastewater to the sanitary sewer system and has unreasonably refused access to the district.

6234. CONNECTION OF SWIMMING POOLS AND EQUIPMENT

Connection of swimming pools and swimming pool equipment to sanitary sewers shall not be permitted unless and until a permit from the District is obtained therefor. A permit giving permission for connection of the pool or equipment shall require that they be separated from the sewer by an air gap and a sump. The maximum size discharge out of the sump is to be 2-1/2 inch I.D. pipe.

The District Manager may, as a condition of such permit, include therein any requirements which in his opinion are necessary for the protection of the District or its inhabitants.

6235. CONNECTION OF COMMERICALLY OPERATED DISHWASHER

Connection of dishwashers operated by commercial/food establishment business and residential community offering full service dining facility shall be connected to an approved grease interceptor. No direct connection to the sewer system will be allowed, unless exception is granted by the District Manager.

6236. FIXER SOLUTION PROHIBITION

No person shall discharge, cause, allow, or permit Fixer Solution to be discharged into the sanitary sewer system without prior pretreatment to meet all applicable limits.

6237. INSTALLATION AND MAINTENANCE OF AMALGAM SEPARATORS

- A. Except as provided in subsections B and C below, no person shall discharge, cause, allow or permit any discharge to the sanitary sewer system from a dental vacuum system, unless such discharge has first been processed through an Amalgam Separator.

- B. For each dental vacuum system installed prior to July 1, 2009, an Amalgam Separator shall be installed on or before December 31, 2010. No dental vacuum system shall be installed on or after July 1, 2009 without an Amalgam Separator. Proof of certification and installation records shall be submitted to the District Manager within thirty (30) days of installation.

- C. A dental vacuum system may be operated without an Amalgam Separator provided that the system is not used in connection with the removal or placement of fillings that contain Dental Amalgam more than three (3) days per calendar year and the system is used exclusively by the following types of dental practices: (1) Orthodontics; (2) Periodontics; (3) Oral and maxillofacial surgery; (4) Radiology; (5) Oral pathology or oral medicine; (6) Endodontistry and prothodontistry.

- D. Amalgam Separators shall be maintained in accordance with manufacturer recommendations. Installation, certification, and maintenance records shall be maintained for minimum of five (5) years and available for immediate inspection upon request therefore by the District Manager or designee during normal business hours.

ARTICLE 3: WASTEWATER DISCHARGE PERMITS

6300. REQUIREMENT FOR WASTEWATER DISCHARGE PERMIT

- A. All critical users proposing to connect or to discharge into a District sewer must obtain a wastewater discharge permit before connecting to or discharging into a District sewer. All existing critical users connected to or discharging into a District sewer must obtain a wastewater discharge permit within 180 days of promulgation of administrative regulations for their issuance and use by the District Manager.
- B. No critical user or significant industrial user shall connect, discharge, cause, allow, or permit any discharge, into the sanitary sewer system except in accordance with a wastewater discharge permit issued by the District Manager.

6301. APPLICATION FOR PERMIT

- A. All persons requiring a wastewater discharge permit shall file a complete application in the form prescribed by the District Manager and accompanied by the applicable fees as established by resolution of the city council of the City of San Jose.
- B. For new construction, permit applications shall be filed with the District Manager at the time that an application for a building permit for a new building or structure is made.
- C. All persons discharging wastewaters into the sanitary sewer system for which a wastewater discharge permit has been issued must apply for a new permit prior to making a significant change in the operations affecting their discharge.
- D. If the District Manager is not satisfied that the permit application has sufficient information to determine whether the permit should be issued, the District Manager may refuse to issue the permit or request that the applicant submit further information. The applicant shall have thirty (30) working days or such longer period of time as allowed by the District Manager, after reviewing the information, to complete the application. If the returned application is not resubmitted within the specified time period, then a new application for wastewater discharge permit must be submitted along with the application fees for a new permit.

6302. DELINQUENT FEES

- A. Wastewater Discharge Permit applications are due ninety (90) days prior to (i) commencing discharge to the sanitary system, (ii) commencing operation of a zero discharging categorical process, or (iii) expiration of existing discharge permit. Any person who fails to file a discharge permit application by the application due date prior to discharge shall be assessed a penalty for delinquent filing as follows:
 - 1. Up to and including thirty (30) days after the application due date, the penalty shall be fifty percent (50%) of the permit fee.
 - 2. Thirty-one (31) to ninety (90) days after the application due date, the penalty shall be one hundred percent (100%) of the permit fee.
 - 3. Ninety-one (91) days to one (1) year after the application due date, the penalty shall be two hundred percent (200%) of the permit fee.
 - 4. More than one (1) year after the application due date, the penalty shall be one thousand percent (1,000%) of the permit fee.
- B. Such penalties shall be in addition to any other penalties or fines that may be levied, and in addition to any other remedies that the District or the San Jose/Santa Clara Water Pollution Control Plant and may have with respect to the discharge.
- C. The District Manager may waive the assessment of penalty if the industrial discharger meets all of the following requirements:

1. The industrial discharger has submitted a completed application to the San Jose/Santa Clara Water Pollution Control Plant no later than thirty (30) days from the date the application was due;
2. The industrial discharger has applied to the District Manager for a waiver no later than thirty (30) days from the date the application was due;
3. The industrial discharger submitted timely applications for (i) the five (5) years immediately prior to the present late application, or (ii) the two (2) years immediately prior to the present late application if the industrial discharger has discharged for less than five (5) years; and
4. The industrial discharger can provide documentation that (i) the application was postmarked or received by the San Jose/Santa Clara Water Pollution Control Plant no later than three (3) days after the application due date, or (ii) failure to submit a timely application was due to circumstances beyond the control of the industrial discharger, and occurred despite the exercise of ordinary care and the absence of willful neglect.

6303. SIGNATURE REQUIREMENTS

- A. Permit applications, discharge reports and any other reports required by the District Manager to be signed, shall be signed by an executive officer of the business filing the application.
- B. Such executive officer shall be at least of the level of Vice President, General Partner, President, or an individual responsible for the overall operation of the facility applying for said Permit, or meet Federal requirements for NPDES applications as contained in Title 40 of the Code of Federal Regulations.
- C. Reports subject to the requirements of Title 40 of the Code of Federal Regulations shall include the certification statement as contained in Title 40 of the Code of Federal Regulations.

6304. DENIAL OF PERMIT APPLICATION

The District Manager may deny a wastewater discharge permit if any one (1) or more of the following conditions exist:

- A. The application is not accompanied by the required fee(s).
- B. The application contains false or misleading information.
- C. The issuance of the permit would result in the discharge of industrial wastes of such quantity or strength that the public health, safety, public, or private property are endangered.
- D. The issuance of the permit would cause the plant to violate any permit conditions, laws, or regulations of the State and/or Federal government.
- E. 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 District Manager may deem necessary to include in the applicant's permit.
- F. The applicant has not provided plans for sufficient protection from accidental discharges to the land, storm sewer system, and sanitary sewer system.
- G. If the District Manager refuses to issue a permit, the application fees shall not be returned to the applicant unless the District Manager has ascertained that a permit is not required to discharge the wastewater for which the permit application is made.

If the District Manager refuses to issue a permit, the application fees shall not be returned to the applicant unless the District Manager has ascertained that a permit is not required to discharge the wastewater for which the permit application is made.

6305. PERMIT CONDITIONS

- A. Wastewater Discharge Permits shall be expressly subject to all provisions of this Chapter and all other regulations, user charges, discharge limitations, and fees established by the District and the San Jose/Santa Clara Water Pollution Control Plant and all applicable local, State and Federal laws and regulations.
- B. The permit may include such terms and conditions as the District Manager may deem necessary to implement this Chapter, and any other applicable local, State or Federal laws and regulations, including but not limited to:
 - 1. Limits on the average and maximum wastewater constituents and characteristics;
 - 2. Requirements for installation and maintenance of flow monitoring, inspection, and sampling facilities;
 - 3. Specifications and pretreatment requirements for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
 - 4. Compliance schedules;
 - 5. Requirements for submission of technical reports or discharge reports;
 - 6. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the District Manager and affording the District Manager and the District Manager access thereto;
 - 7. Requirements for notification to the District Manager of any new introduction of wastewater constituents or any Significant Change in the volume or character of the wastewater constituents being introduced into the wastewater stream;
 - 8. Requirements and plans for protection against accidental discharges, including but not limited to berming of chemicals and waste materials. The review and approval of such plans and operating procedures shall not relieve the user from the responsibility of modifying the facility as necessary to provide the protection necessary to meet the requirements of this Code or other State or Federal regulations;
 - 9. Requirements for notification of accidental discharges.
 - 10. Requirements for submission of a Slug Control Plan or specific elements thereof.

6306. PERMIT DURATION AND AMENDMENT

- A. Wastewater Discharge Permits shall be issued for a specific duration, not to exceed five (5) years.
- B. Permits shall be subject to amendment by the District Manager as limitations or requirements for wastewater discharge are modified and changed.
- C. The holder of a Wastewater Discharge Permit shall be informed of any proposed amendment to its permit at least thirty (30) days prior to the effective date of the amendment.
- D. The District Manager may include a compliance schedule in an amended permit.

6307. TRANSFER OF PERMIT

Wastewater Discharge permits are issued to a specific user for a specific operation. A discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without prior approval of the District Manager. However, nothing in this Ordinance shall be construed to prevent the application of terms and conditions of this Ordinance, including enforcement penalties, from applying to a succeeding owner, successor in interest, or other assigns of an existing contract of a permit holder.

6308. DISCHARGE REPORTS

- A. Dischargers are subject to the reporting requirements as contained in Title 40 of the Code of Federal Regulations. The District Manager or the Director may require that any person

discharging wastewater into the Sanitary Sewer System file additional periodic discharge reports or a zero discharge report.

- B. The periodic discharge report may include, but need not be limited to, nature of process, volume, rates of flow, mass emission rate, hours of operation, number of employees, or other information which relates to the generation of waste, including wastewater constituents and characteristics in the wastewater discharge and the ability of the Discharger to meet applicable discharge limits.
- C. The zero discharge report shall certify that the zero discharge user does not discharge any process water to sanitary sewer, or for a zero discharge categorical user does not discharge any categorical process water or ancillary process water to the designated zero discharge categorical sample point or into the Sanitary Sewer System. This report may be required to include, but need not be limited to, nature of process, hours of operation, number of employees, hauling records, or other information that relates to the generation of wastes.
- D. The District Manager or the Director may also require such periodic discharge reports and zero discharge reports to include information concerning the chemical constituents and quantity of chemicals stored on-site, including waste hauling records or other information, which relates to the generation of wastes even though they may not normally be discharged.
- E. In addition to discharge reports, the District Manager may require dischargers to submit such additional reports as may be necessary to allow the District Manager or the Director to evaluate the discharger's ability to comply with this Chapter, including but not limited to best management practice or self-monitoring reports.
- F. It shall be unlawful for any person who has discharged wastewater to the Sanitary Sewer System to refuse to file any report requested by the District Manager, or to file any report or application after the due date specified by the District Manager.
- G. Sampling and analysis shall be performed in accordance with 40 CFR 136 and amendments thereto. Where 40 CFR 136 does not contain sampling or analytical methods for the pollutant in question, or where the District Manager or the Director determines that 40 CFR 136 are inappropriate for the pollutant in question, sampling and analysis shall be performed by using analytical methods validated by the District Manager or the Director.

6309. REVOCATION OF PERMIT AND TERMINATION OF SERVICE

- A. The District Manager or the Director may revoke any wastewater discharge permit, and/or terminate or cause to be terminated wastewater service to any premises, based upon either of the following grounds:
 - (1) If a discharge of wastewater from the premises causes or threatens to cause a violation of any provision of this Chapter or any ordinance, rule or regulation of the District or applicable local, State or Federal regulations; or
 - (2) If a discharge of wastewater from the premises causes or threatens to cause a condition of contamination, pollution, or nuisance.
- B. Written notice of the permit revocation or service termination, and a statement of the grounds therefor, shall be delivered to the discharger. The notice shall be effective ten (10) calendar days after it is served on the discharger, unless the District Manager or the Director determines that immediate permit revocation or suspension of service is necessary for the preservation of public health or safety or for the protection of public or private property. If the District Manager or the Director determines that immediate permit revocation or suspension of service is necessary, the District Manager or the Director may act to revoke the permit or suspend service immediately after written notice is delivered to the discharger.

- C. It shall be unlawful for any person to discharge any material into the sanitary sewer system from any premises for which the permit has been revoked or wastewater service has been suspended or terminated.

6310. PERMIT APPEALS

- A. Any permittee or permit applicant may appeal a notice of revocation of a discharge permit, notice of denial of a permit, any term or condition of a permit, amendment of a permit, or notice of termination of service to the District Board.
- B. A request for hearing on a decision to revoke a permit or terminate service shall be filed, in writing, with the District Manager within ten (10) days after the date the notice of revocation or termination of service is served on the permittee. The District Manager shall promptly furnish a copy of the request to the Director if the decision from which the appeal is taken was made by the Director. A request for hearing on a decision to revoke a permit or terminate service shall, except in the case of immediate permit revocation or suspension of service for the preservation of public health or safety or for the protection of public or private property, stay the effect of the notice of revocation or termination of service, during the pendency of the appeal.
- C. A request for hearing on a decision to deny a permit, on the terms or conditions in a permit, on an amendment to a permit, shall be filed, in writing, with the District Manager within thirty (30) days after the date the notice of decision is served on the applicant. The District Manager shall promptly furnish a copy of the request to the Director if the decision from which the appeal is taken was made by the Director.
- D. Failure of a permittee or applicant to timely request a hearing shall be deemed acceptance of the decision by the District Manager or the Director, and such decision shall be deemed final and effective.
- E. At the hearing before the District Board, the applicant shall be given an opportunity to present witnesses and documentary and other evidence.
- F. The hearing will be conducted informally and technical rules of evidence shall not apply. Any and all evidence which the District Board deems reliable, relevant and not unduly repetitious may be considered.
- G. The applicant may be represented at the hearing by any other person.
- H. The District Manager shall provide written notice of Board's decision on the appeal to the permittee or applicant. The decision of the District Board on the appeal shall be deemed final and effective three (3) days after notice of the decision on appeal is served on the permittee or applicant.
- I. Filing of a request for hearing shall not entitle any person to discharge in violation of any of the provisions of this Code.

6311. VIOLATIONS OF CHAPTER

- A. **Abatement of violation.** The District may abate any violation of this Chapter. The cost of such abatement may be added to the sewer service charge of the owner or tenant of the property upon which the violation occurred, and the District shall have all available remedies for the collection of such costs as it has for the collection of sewer service charges.
- B. **Civil penalties.** Any person who intentionally or negligently violates any provisions of this Chapter, any provision of any permit issued pursuant to this Chapter, or who intentionally or negligently discharges waste or wastewater which causes pollution, or violates any effluent limitation, national standard of performance, or national pretreatment or toxicity standard, shall be civilly liable to the District in a sum up to ten thousand dollars (\$10,000) for the first day in

which such violation occurs, up to twenty-five thousand dollars (\$25,000) for the second day in which such violation occurs, and up to fifty thousand dollars (\$50,000) for each additional day.

- C. **Remedies not exclusive.** The remedies set forth in this Section shall be cumulative and in addition to all enforcement remedies available to the District under Chapter 8 of this Code.

6312. WAIVER OF POLLUTANTS NOT PRESENT

- A. A categorical industrial user seeking to request a waiver of monitoring requirements for pollutants not present must submit the following with its permit application:
1. Data from at least one (1) sampling of the facility's process wastewater prior to any treatment that is representative of all wastewater from all processes;
 2. Signature in compliance with Section 6307;
 3. Certification statement as specified under 40 CFR 403.6(a)(2)(ii); and
 4. Other technical factor as may be required by the District Manager to demonstrate that the pollutant is not present in the industrial user's discharge.
- B. If approved, the waiver shall be included as part of the categorical industrial user's discharge permit. The categorical industrial user must certify in each self-monitoring report with the statement set forth in 40 CFR 403.12(e)(2)(v) that there has been no increase in the waste stream due to the activities of the user of the pollutant that was waived.
- C. The waiver shall only be valid for the term of the permit, and a new request for waiver must be submitted for each new permit.

ARTICLE 4: PRETREATMENT OF INDUSTRIAL WASTE

6400. REQUIREMENT FOR PRETREATMENT AND PREVENTION

- A. Pursuant to Section 54739 of the California Government Code, the District may require any of the following:
- (1) Pretreatment of any industrial waste which the District determines is necessary in order to meet standards established by the federal or California state government or other regulatory agencies or which the District determines is necessary in order to protect the collection system and the treatment works or the property and efficient operation thereof or the health or safety of the District and plant employees or the environment.
 - (2) The prevention of the entry of such industrial waste into the collection system and treatment works.
 - (3) The payment of excess costs to the District for supplementary treatment plants, facilities, or operations needed as a result of allowing the entry into the collection system and treatment works of such industrial waste.
- B. The provisions of this Section shall be in addition to any other provisions of this Code concerning pretreatment or prevention of industrial waste or any other discharge into the sanitary sewer system.

6401. CIVIL LIABILITY FOR VIOLATION

As provided in Section 54740 of the California Government Code:

- A. Any person who violates any requirement adopted or ordered by the District pursuant to Paragraph (1) or (2) of Section 6400.A may be civilly liable in a sum not to exceed Twenty-Five Thousand Dollars (\$25,000.00) a day for each violation.

- B. The District may petition the superior court for Santa Clara County to impose, assess and recover the sums provided in Paragraph A of this Section. In determining the amount, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the economic benefit derived through any noncompliance, the nature and persistence of the violation, the length of time over which the violation occurs, and corrective action, if any, attempted or taken by the discharger.
- C. Notwithstanding any other provision of law, all civil penalties imposed by the court for a violation of this Section shall be distributed to the District.
- D. Remedies under this Section are in addition to and do not supersede or limit any and all other remedies, civil or criminal, but no liability shall be recoverable under this Section for any violation for which liability is recovered under Section 6402 of this Article.

6402. ADMINISTRATIVE COMPLAINT; CIVIL PENALTY

- A. The District may issue an administrative complaint to any person who violates any requirement adopted or ordered by the District pursuant to Paragraph (1) or (2) of Section 6400.A. The administrative complaint shall allege the act or failure to act that constitutes the violation of the District's requirements, the provisions of Section 54740.5 of the California Government Code authorizing civil liability to be imposed, and the proposed civil penalty.
- B. The administrative complaint shall be served by personal delivery or certified mail on the person subject to the District's discharge requirements, and shall inform the person served that a hearing shall be conducted within sixty (60) days after the person has been served. The hearing shall be before a hearing officer designated by the District Board. The person who has been issued an administrative complaint may waive the right to a hearing, in which case the District shall not conduct a hearing. A person dissatisfied with the decision of the hearing officer may appeal to the District Board within thirty (30) days of notice of the hearing officer's decision.
- C. If after the hearing, or appeal, if any, it is found that the person has violated reporting or discharge requirements, the hearing officer or the District Board may assess a civil penalty against that person. In determining the amount of the civil penalty, the hearing officer or the District Board may take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the economic benefit derived through any noncompliance, the nature and persistence of the violation, the length of time over which the violation occurs and corrective action, if any, attempted or taken by the discharger.
- D. Civil penalties may be imposed by the District as follows:
 - (1) In an amount which shall not exceed two thousand dollars (\$2,000) for each day for failing or refusing to furnish technical or monitoring reports.
 - (2) In an amount which shall not exceed three thousand dollars (\$3,000) for each day for failing or refusing to timely comply with any compliance schedule established by the District.
 - (3) In an amount which shall not exceed five thousand dollars (\$5,000) per violation for each day for discharges in violation of any waste discharge limitation, permit condition, or requirement issued, reissued, or adopted by the District.
 - (4) In an amount which does not exceed ten dollars (\$10) per gallon for discharges in violation of any suspension, cease and desist order or other orders, or prohibition issued, reissued, or adopted by the District.
 - (5) The amount of any civil penalties imposed under this Section which have remained delinquent for a period of 60 days shall constitute a lien against the real property of the discharger from which the discharge originated resulting in the imposition of the civil penalty. The lien provided herein shall have no force and effect until recorded with the County Recorder and when recorded shall have the force and effect and priority of a judgment lien and continue for ten (10) years from the time of recording unless sooner released, and

shall be renewable in accordance with the provisions of Sections 683.110 to 683.220, inclusive, of the California Code of Civil Procedure.

- E. All moneys collected under this section shall be deposited in a special account of the District and shall be made available for the monitoring, treatment, and control of discharges into the District's sanitary sewer system or for other mitigation measures.
- F. Unless appealed, orders setting administrative civil penalties pursuant to this Section shall become effective and final upon issuance thereof, and payment shall be made within thirty (30) days. Copies of these orders shall be served by personal service or by registered mail upon the party served with the administrative complaint and upon other persons who appeared at the hearing and requested a copy.
- G. The District may, at its option, elect to petition the superior court to confirm any order establishing civil penalties pursuant to this Section and enter judgment in conformity therewith in accordance with the provisions of Sections 1285 to 1287.6, inclusive, of the California Code of Civil Procedure.
- H. No penalties shall be recoverable under this Section for any violation for which civil liability is recovered under Section 6401 of this Article.

6403. JUDICIAL REVIEW

- A. Any party aggrieved by a final order issued by the District Board under Section 6402, after granting review of the order of a hearing officer, may obtain review of the order of the District Board in the superior court by filing in the court a petition for writ of mandate within thirty (30) days following the service of a copy of a decision and order issued by the Board. Any party aggrieved by a final order of a hearing officer issued under Section 6402, for which the District Board denies review, may obtain review, of the order of the hearing officer in the superior court by filing in the court a petition for writ of mandate within thirty (30) days following service of a copy of a decision and order denying review by the Board.
- B. If no aggrieved party petitions for writ of mandate within the time provided by this Section, an order of the District Board or a hearing officer shall not be subject to review by any court or agency, except that the Board may grant review on its own motion of an order issued under Section 6402 after the expiration of the time limits set by that Section.
- C. The evidence before the court shall consist of the record before the District Board, including the hearing officer's record, and any other relevant evidence which, in the judgment of the court, should be considered to effectuate and implement policies of this Chapter. In every such case, the court shall exercise its independent judgment on the evidence.
- D. Except as otherwise provided in this Section and as provided in Subsection 54740.6(d) of the California Government Code, subdivisions (e) and (f) of Section 1094.5 of the California Code of Civil Procedure shall govern judicial review proceedings pursuant to this Section.

CHAPTER VII - PERMITS, FEES AND SERVICE CHARGES

ARTICLE 1: CONNECTION PERMIT

7100. CONNECTION PERMIT

No one shall connect to the District sewer system or disconnect from the District sewer system without obtaining a sewer connection/disconnect permit from the District Manager.

7101. CONNECTION PERMIT FEES

TYPES OF PERMIT FEES	AMOUNT
1) Single Family Residential connecting to existing lateral (CCTV & inspection included)	\$350.00/unit
2) Single Family Residential connecting with new lateral (CCTV & inspection included)	\$650.00/unit
3) Single Family Residential already connected, but new cleanout required (CCTV & inspection included)	\$250.00/unit
4) Single Residential already connected w cleanout (CCTV & inspection included)	\$150.00/unit
5) Housing (Multiple, hotel, condo, living units, etc.)	\$100.00 per unit up to 4 units and \$65.00 above 5 and above
6) Commercial & Retail	\$500.00 per connection
7) Disconnect Permit	\$200.00/each

- a) Fees for mixed use shall be combination of above fee structures.
- b) Above connection permit fees are non-refundable fee, once paid to the District.

7102. INSPECTION FEES

Above fees for single family residential connection includes CCTV (television) and inspection of the lateral connection. For all others, there will be separate charges for inspection. Fee for inspection of a public sewer is charged on actual cost incurred by the District. As a minimum fee with a lateral connection to existing lateral, the inspection fee will be \$350, not including CCTV. For all others, District Engineer-Manager will estimate the fee based on level of effort required. All inspection fees are non-refundable fee, unless an installers' agreement are required and executed for the development project.

7103. TIME LIMITATION ON CONNECTION PERMIT

In the event connection to the sewer is not made within six (6) months for an existing building and one (1) year for new construction from the date the connection permit is issued, said permit may become void and, if voided, the total amount paid for said permit and any sewer service charges collected will be forfeited to the District, and a new permit will be required before connection is made.

7104. PERMIT ISSUANCE

The District Manager and Engineer shall issue all permits under this Chapter. However, the District Manager and engineer shall not issue any permit, which, in the District's opinion, will cause the District to exceed its ability to convey or treat adequately the wastewater that would result from the issuance of such a permit. Any refusal to issue any permit under this Chapter is subject to the Appeals Procedure provided for in Chapter IX of this Code.

7105. SUSPENSION OR REVOCATION OF PERMITS

If the permit holder fails or refuses to comply with any provision or condition of the permit, this Code, the rules and regulations of the District and orders of the District Manager and Engineer, or the rules and regulations of a municipal, county, state or federal agency, the District Manager and Engineer shall have the authority to suspend the permit by giving written notice of the suspension to the permit holder,

stating that the permit is suspended, the reasons for the suspension, and the effective date of suspension. The suspension continues until the permit holder removes the grounds for suspension, but in no event shall the suspension be in effect for longer than 6 months from its effective date. All orders of suspension are subject to the appeals procedures provided for in Chapter IX of this Code.

If any of the grounds for a suspension continue during the period of the suspension, and, in the opinion of the District Manager and Engineer, are likely to continue past the termination date of the suspension; he may give written notice to the permit holder specifying the time and place of a hearing before the Sanitary Board to consider revocation of the permit. Said notice shall be given at least ten (10) days prior to said hearing, served in the manner prescribed in Section 6309 of the Operations Code and shall include the grounds for the proposed revocation.

Upon a finding that any of the grounds specified in the notice are true, the Sanitary Board may revoke the permit.

ARTICLE 2: CONNECTION FEES

7200. FRONT-FOOTAGE AND ACREAGE FEES

For all residential, commercial, industrial, schools and other like structures or developments shall be paid by connectors and installers in each Zone of this District as defined in Section 3003 of this Code as follows:

- Zone 1 - \$25.90 per front foot and \$1,430.00 per acre.
- Zone 2 - \$31.10 per front foot and \$1,640.00 per acre, except that where a sewer is installed to serve only one side of the street, such charge shall be \$62.200 per front foot and \$1,640.00 per acre.
- Zone 3 - \$31.10per front foot and \$1,840.00 per acre, except that where a sewer is installed to serve only one side of the street, such charge shall be \$62.20 per front foot and \$1,840.00 per acre.
- Zone 4 - \$36.80 per front foot and \$2,040.00 per acre, except that where a sewer is installed to serve only one side of the street, such charge shall be \$72.50 per front foot and \$2,40.00 per acre.

Provided that in the event that not more than one single family residential structure is to be constructed and connected to District's sanitary sewage system on any lot or parcel of property having an area in excess of one acre, such acreage fee to be collected in each Zone, as hereinabove provided shall not exceed the fee for one acre.

7201. ADJUSTMENTS IN FRONT FOOTAGE

Adjustments in frontage will be as follows:

- A) Corner Lots - Will be given up to 125-foot corner credit along the long side when computing front footage fees.
- B) Irregular Shaped Lots - Will be given special consideration when computing front footage fees.

7202. ADDITIONAL RESIDENTIAL UNIT OR DWELLING UNIT FEES

Additional residential unit or dwelling unit fees shall be paid by all persons connecting to the District sewer, in addition to fees to be paid pursuant to Section 7200 of this Code, for each residential unit or dwelling unit as defined in Section 2109(A) and 2109(B) of this Code in each Zone of this District as defined in Section 3003 of this Code as follows:

- A) For any and all residential uses including multiple unit residential buildings, townhouse, condominium, planned unit development, cluster development or similar type residential development, motel, hotel, court, auto court, trailer court, mobile home park, cabana, boarding houses, rest homes, dormitories, and similar type residential developments having a density in excess of three and one-half (3-1/2) units or dwelling units per acre:

Zone 1 - \$510.00 for each unit or dwelling unit exceeding 3-1/2 units per acre.

Zone 2 - \$558.00 for each unit or dwelling unit exceeding 3-1/2 units per acre.

Zone 3 - \$612.00 for each unit or dwelling unit exceeding 3-1/2 units per acre.

Zone 4 - \$660.00 for each unit or dwelling unit exceeding 3-1/2 units per acre.

For hotels and motels, additional unit or dwelling unit fees in an amount equal to two-thirds (2/3) of those hereinabove set forth shall be paid for each unit or dwelling unit exceeding 3-1/2 units per acre.

- B) In any case, where the unit or additional unit fees to be paid is not herein above established, such fees shall be determined by the District Board.

7203. ADDITIONAL COMMERCIAL/INDUSTRIAL DENSITY FEE

Additional density fees shall be paid by all persons connecting to the District sewer system, in addition to fees to be paid pursuant to Section 7200 of this Code, for each commercial or industrial building, in each zone of this District as defined in Section 3003 of this Code, as follows:

- A) For the initial connection to the sanitary sewer system of any and all commercial or industrial uses:

Zone 1 - \$2.26 per gallon per day for each gallon of sewage discharge.

Zone 2 - \$2.48 per gallon per day for each gallon of sewage discharge.

Zone 3 - \$2.72 per gallon per day for each gallon of sewage discharge.

Zone 4 - \$2.94 per gallon per day for each gallon of sewage discharge.

- B) For any change in use of any and all office, commercial or industrial connections that result in an increase of sewage discharge above existing uses.:

Zone 1 - \$2.26 per gallon per day for each gallon of sewage discharge

Zone 2 - \$2.48 per gallon per day for each gallon of sewage discharge

Zone 3 - \$2.72 per gallon per day for each gallon of sewage discharge

Zone 4 - \$2.94 per gallon per day for each gallon of sewage discharge

- C) The District Manager and Engineer shall determine the per day estimated gallons of sewage to be discharged to the District sewer system for computing the fees under this Section.

7204. SPECIAL EQUALIZATION CHARGES

Except as otherwise provided for the reimbursement of excess costs in Chapter 5, Article 4 hereof, in addition to any other rates or charges established by the ordinances, rules and regulations of the District, there shall be collected, prior to the issuance of a permit for connection to the sanitary sewerage system of the District, such Special Equalization Charges as may be specified by resolution of the District Board in order to establish conditions of equality between the installers of sewerage facilities and those benefiting from but not participating in the cost of such facilities. When Special Equalization Charges are deemed necessary and appropriate by the District Board, a Special Benefit Zone shall be established which shall define the area of properties that may reasonably be expected to benefit from the

construction of specific sewerage facilities which have been or are to be constructed. The boundaries of each Special Benefit Zone and the amount of Special Equalization Charges to be levied therein shall be established by resolution of the District Board.

7205. PAYMENT OF CONNECTION FEES

- A. **Connector** - Fees due and payable by a connector shall be paid prior to the issuance of a connection permit.
- B. **Installer** - Fees dues and payable by an installer shall be paid prior to execution of the Installer's Agreement by the District.

7206. CREDIT FOR FEES PAID UNDER AN ASSESSMENT DISTRICT

- A. **Partial Payment** - Any property located within an assessment district which has been assessed for indirect or future benefits shall be given credit for said assessment on the fees provided for in Section 7200 above.
- B. **Full Payment** - Any property located within an assessment district which was assessed a sum equal to the full and complete benefit to said property shall be given full credit for fees provided for in Section 7200 above.

ARTICLE 3: SEWER SERVICE CHARGES

7300. GENERAL

There is hereby levied and assessed upon each premise which is discharging sewage that ultimately passes through the sanitary sewer system of the District, a service charge as provided in this Article. The service charge for each single family unit shall be as specified as Section 7301; the service change for each of the particular units listed in Section 7302 shall be as specified therein; and the service charge for all other units shall be as specified in Section 7303.

7301. CHARGE FOR SINGLE FAMILY UNITS

Each Single Family Unit (as defined in Section 2094) shall be charged Four Hundred Eleven Dollars and 64/100th Cents (\$411.64) per year.

7302. CHARGES FOR PARTICULAR UNITS

- A. Each Unit (as defined in Section 2066.A) of the particular uses listed below shall be charged Five Dollars and 45/100^{ths} Cents (\$5.45) per year, plus an additional annual service charge per hundred cubic feet (HCF) of sewage discharged, to be determined by the District Manager in accordance with the annual use of water by each Unit times the applicable rate to be determined by the District Manager as follows:

<u>Type of Use:</u>	<u>Service Charge:</u>
Auto Repair Shops & Service Stations	\$3.37 /HCF
Car Washes	\$2.81 /HCF
Domestic Laundry	\$3.02 /HCF
Machinery Manufacturers	\$4.94 /HCF
Motels or Hotels without Food Service	\$3.43 /HCF
Motels or Hotels with Food Service	\$5.76 /HCF
Retirement Homes with Common Dining Facilities	\$6.49 /HCF
Convalescent Hospitals	\$3.25 /HCF
Printing Plants	\$5.81 /HCF
Restaurants	\$7.02 /HCF
Retail or Professional Office	\$3.09 /HCF
Schools, Colleges, Day Care Facilities	\$4.37 /HCF

- B. Minimum Charge: In no event shall the annual service charge levied upon any Unit of the uses listed in Paragraph A above, be less than seventy-five percent (75%) of the service charge for a Single Family Unit, as set forth in Section 7001 of this Chapter.
- C. Where different types of Units are serviced by the same water meter, the District Manager shall estimate the quantity of discharge material produced by each type of Unit and calculate the additional service charge applicable to each type of Unit based upon the estimated discharge from that Unit.
- D. Whenever the District Manager determines that a Unit has been inappropriately classified as one of the types listed in Paragraph A of this Section, the District Manager may reclassify such Unit to another of the types listed in Paragraph A of this Section or require that the annual service charge for such Unit be calculated in accordance with the provisions of this Chapter. Any increase or decrease in the annual service charge for the affected Unit resulting from the reclassification shall be prospective only and implemented on the next regular billing by the District for annual sewer charges. No discharger shall be entitled to a retroactive refund of charges paid, or liable for payment of additional charges, for any period prior to the effective date of the reclassification.

7303. CHARGES FOR ALL OTHER UNITS

- A. For each Unit not listed herein, the annual service charge shall be the sum of the annual Capital Cost Recovery Charge and the annual Maintenance and Operation Cost Recovery Charge, as determined by the District Manager, calculated as follows:

- (1) Capital Cost Recovery Charge:

Infiltration/Inflow (I/I)	\$6.22 per year for each unit; <i>plus</i>
Flow	\$268,792.97 per year for each million gallons per day of sewage treatment plant capacity required to treat the sewage discharged from the Unit into the sanitary sewer system; <i>plus</i>
Biochemical Oxygen Demand (BOD)	\$39,250.59 per year for each thousand pounds per day of sewage treatment plant capacity required to remove the biochemical oxygen demand contained in sewage discharged from the Unit into the sanitary sewer system; <i>plus</i>
Suspended Solids (SS)	\$36,285.20 per year for each thousand pounds per day of sewage treatment plant capacity required to remove the suspended solids contained in the sewage discharged from the Unit into the sanitary sewer system; <i>plus</i>
Ammonia (NH3)	\$119,107.15 per year for each thousand pounds per day of sewage treatment plant capacity required to remove ammonia contained in the sewage discharge from the Unit into the sanitary sewer system.

- (2) Operation and Maintenance Cost Recovery Charge:

Flow	\$2,340.20 for each million gallons per year of sewage discharged from the Unit into the sanitary sewer system; <i>plus</i>
Biochemical Oxygen Demand (BOD)	\$266.43 for each thousand pounds per year of biochemical oxygen demand discharged from the Unit into the sanitary sewer system; <i>plus</i>

Suspended Solids (SS)	\$347.90 for each thousand pounds per year of suspended solids discharged from the Unit into the sanitary sewer system; <i>plus</i>
Ammonia (NH3)	\$2,872.45 for each thousand pounds per year of ammonia discharged from the Unit into the sanitary sewer system.

- B. In determining the Capital Cost Recovery Charge and the Operation and Maintenance Cost Recovery Charge, the District Manager may utilize information on the content of discharges from particular Units provided by the treatment Plant, or other source of information deemed by the District Manager to be appropriate, or actual grab samples of such discharges taken by the District, or any combination thereof. The District Manager is authorized to modify the annual service charge from time to time, based upon such information and samples; *provided, however*, any increase or decrease in the annual service charge shall be prospective only and implemented on the next regular billing by the District for annual sewer charges. No discharger shall be entitled to a retroactive refund of charges paid, or liable for payment of additional charges, for any period prior to the effective date of the modification.
- C. Where multiple Units having different flow content are serviced by the same water meter, the District Manager shall allocate the Capital Cost Recovery Charge and the Operation and Maintenance Cost Recovery Charge between each individual Unit based upon his estimate of the discharge material produced by each Unit.

7304. UNMETERED AND METERED WASTES

- A. When rates are specified in this Article to be in accordance with the use of water, each unit to be charged in such manner shall be separately metered. Where separate metering is not provided, or for newly constructed units, the District Manager shall make a reasonable estimate of the volume of water consumed to be used as a basis for sewer service charges.
- B. The District Manager or owner may meter the sewer line, and if the results differ from that used as a basis for sewer service charges for the previous billing, the user will be charged for any excess usage or credited for any overpayments. The new billing will be adjusted to conform to the actual metering.

ARTICLE 4: PAYMENT OF SEWER SERVICE CHARGES

7400. WHEN SERVICE CHARGES ARE DUE

All accounts are due and payable in advance at the office of the District Manager on the first day of July of each year. Billings will be sent by the District Manager. Bills are sent as a courtesy and failure to receive a bill does not relieve owner of responsibility to pay or of penalties levied for non-payment.

7401. ALTERNATE METHOD OF BILLING AND COLLECTION

The District may elect to use the tax roll on which general District taxes are collected for the collection of current or delinquent rates and charges, including fees, tolls, rates, rentals or other charges for services and facilities furnished by it. In such case, proceedings for placement of the District's charges on the tax roll shall be conducted as now or hereafter provided in Article 4, Chapter 6, Part 3, Division 5 (commencing with Section 5470 et seq.) of the Health and Safety Code of the State of California. This method shall not apply to public property or other property which, in the opinion of the District Manager, cannot be conveniently handled by this method.

7402. PAYMENT OF SERVICE CHARGES FOR NEW CONNECTIONS

- A. Commencement Date for Service Charges. In the case of new connections to the sanitary sewer system for which a connection permit is issued pursuant to Chapter VII, sewer service charges shall commence on the date a certificate of occupancy is issued by the building official for the newly constructed improvements on the property, or, if no certificate of occupancy will be issued,

the date on which final inspection approval is granted by the building official for such improvements (the "Commencement Date").

- B. Initial Payment. At the time the District is requested by the building official to grant a clearance for issuance of a certificate of occupancy or final inspection approval, the District shall collect from the permittee the amount of sewer service charges that will become due from the expected Commencement Date referred to in Paragraph (b) above to the next billing in which sewer service charges can be included on the tax roll or billed to the owner, as determined by the District Manager. No clearance shall be granted until such charges are paid in full.
- C. Refund of Overpayment. In the event of a delay of 30 days or greater by the building official in issuing the certificate of occupancy or final inspection report occurring after the District has collected the initial payment of sewer service charges pursuant to Paragraph (c) above, and evidence of such delay having been presented to the satisfaction of the District Manager, then the District Manager shall refund to the permittee that portion of the service charges attributable to the period between the expected Commencement Date and the actual Commencement Date.
- D. Delayed Collection of Initial Payment. In the event the building official issues a certificate of occupancy or final inspection approval without the District having first collected the initial payment of sewer service charges in accordance with Paragraph (c) above, then upon discovery of the actual Commencement Date, the District shall be entitled to bill to the permittee or add to the tax roll, or both, any sewer service charges accruing between the actual Commencement Date and the next billing in which sewer service charges can be included on the tax roll or billed to the owner, as determined by the District Manager.

7403. DELINQUENT SERVICE CHARGES

- A. Accounts billed by the District Manager shall become delinquent two calendar months from and after the date that they have become due and payable. A penalty equal to 100% of the monthly service charge may be charged for each calendar month, or portion thereof, that the account remains delinquent. If an account is delinquent more than 120 days, service may be disconnected. The District may collect unpaid sewer service charges by exercising any one or more of the following remedies:
 - (1) The District may commence a civil suit against the person(s) responsible for payment of the delinquent charges, in which event it shall have judgment for the cost of suit and reasonable attorneys' fees;
 - (2) The District may add the delinquent charges to annual taxes next levied against the property for which the sewer service was provided, which shall constitute a lien against that property, to be collected in the same manner as general real property taxes in accordance with the provisions of Sections 6520.10 and 6520.11 of the California Health and Safety Code;
 - (3) The District may record a certificate of the delinquent charges to impose a lien against the property for which the sewer service was provided, in accordance with the provisions of Section 6520.12 of the California Health and Safety Code.
- B. Accounts billed by the tax roll are subject to the same penalty as prescribed by law for general real estate property taxes.

7404. APPEALS

Any decision or determination made by the District Manager pursuant to this Chapter may be appealed by the discharger to the District Board pursuant to the provisions of Article 8206 of this Code. An appeal shall not operate as a stay on the decision of the District Manager that is the subject of the appeal and such decision shall be effective and enforced at the same time and in the same manner as if no appeal therefrom had been filed.

ARTICLE 5: OTHER FEES AND PERMITS

7501. LATERAL SEWER FEES (EXISTING DISTRICT-OWNED LATERAL SEWER)

When the connector's property has a lateral sewer that was constructed to serve said property, but paid for by the District, the connector shall reimburse the District for said lateral sewer as follows:

- A. Flat fee for right to use lateral - \$3,000
- B. Plus permit, connection and inspection fees
- C. Construction Charge - Equal to the per-foot charge paid by the District for said lateral times one-half the width of the street (60 foot maximum street) in which the lateral sewer is constructed.
- D. "Y" Connection - The cost of the "Y" connection to the branch or main sewer.
- E. Encroachment Permit - As charged by Local Agency.

7502. FEES AND DEPOSITS - ENVIRONMENTAL QUALITY ACT

Where District is the Lead Agency or a responsible agency for any project under the state and local guidelines adopted pursuant to the Environmental Quality Act of 1970 and amendment thereof, the person or persons beneficially interested shall deposit with District the estimated cost of District preparation of materials, reports and the making of evaluations of the proposed project as estimated by the District Engineer. Should the amount of deposit be inadequate to meet the District's costs as Lead Agency or as a responsible agency involved in providing consultation to the Lead Agency as required by law, District shall, prior to completion of the District's evaluation of the proposed project, notify the person or persons beneficially interested of the amount necessary to complete the review of the proposed project which shall be immediately deposited with District. Should there be a surplus remaining in the deposit following completion of the District's evaluation of the project, the surplus shall be returned to the person or persons making such deposit.

7503. SWIMMING POOL DISCHARGE PERMIT

- A. The Clean Water Act prohibits the discharge of any pollutant including swimming pool water directly into storm drainage systems without a permit.
- B. All persons owning property with a swimming pool shall obtain a swimming pool discharge permit from the District Manager before swimming pool water is permitted to be discharged to Cupertino Sanitary District sewer systems.

7504. OTHER DISCHARGE PERMIT

Property owners, contractor, vendors and other utility and public agencies who will be discharging water into the wastewater system shall comply with Chapter VI, Use of Sewers, Article 3, "Wastewater Discharge Permits" and in addition, apply for the District discharge permit.

7505. ADDITIONAL DISCHARGE PERMIT REQUIREMENTS

Once the District discharge permit is issued, permittee shall comply with these additional requirements:

- A. Water must be tested prior to discharge and chlorine content shall be less than 1 part per million. Water may need to be de-chlorinated to meet this requirement.
- B. Water sample testing results shall be submitted to District. Water must not be cloudy or discolored and must be free of algae and contaminants.
- C. Permit may contain restrictions such as time of day allowed for discharging, traffic control, and other requirements as determined by the District Manager.

7506. DISCHARGE PERMIT FEES

Total fees shall be \$300 for the District discharge permit fee, plus inspection and monitoring costs based on inspector's time spent on-site and calculated at inspector's hourly pay rate and quantity discharge fee based on quantity of water being discharged, calculated at \$6.50 per hundred cubic feet. The total fee shall be paid prior to issuance of District discharge permit.

CHAPTER VIII - ENFORCEMENT AND ADMINISTRATIVE CITATIONS

ARTICLE 1: CODE ENFORCEMENT

8100. AUTHORITY TO ENFORCE CODE

In the absence of a specific delegation, assignment, or restriction of enforcement authority to a particular officer, employee, or agent of the District or the City of San Jose, the District Manager, the Director, and the field inspectors of the San Jose-Santa Clara Regional Wastewater Facility, and their respective authorized representatives, shall have authority to enforce the provisions of this Code, or any other ordinance of the District, or any rule, regulation or order promulgated or issued pursuant to this Code, or the provisions of any code adopted by reference by this Code, with the power to inspect and issue notices, administrative citations, and compliance orders for violations of this Code.

8101. VIOLATIONS AS MISDEMEANORS OR INFRACTIONS; PUBLIC NUISANCES

- A. General violation. It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this Code, or any other ordinance of the District, or any rule, regulation or order promulgated or issued pursuant to this Code, or the provisions of any code adopted by reference by this Code. Any person violating any of such provisions or failing to comply with any of such requirements shall be guilty of a misdemeanor or an infraction, if so specified.
- B. Separate offense. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation is committed, continued, or permitted by such person, and shall be punishable accordingly.
- C. Reduction of misdemeanor to infraction. Notwithstanding any other provision of this Code, any violation constituting a misdemeanor may, in the discretion of the enforcing authority, be charged and prosecuted as an infraction. A violation shall be deemed an infraction if a citation is issued specifying that the violation is an infraction, or the District Counsel files a complaint in the superior court specifying that the offense is an infraction, or the District Counsel makes a motion to reduce a misdemeanor charge to an infraction prior to trial on the matter.
- D. Enhancement of infraction to misdemeanor. Notwithstanding any other provision of this Code, any offense which would otherwise be an infraction may, in the discretion of the enforcing authority, be charged and prosecuted as a misdemeanor if the defendant has been convicted of three or more violations of this Code within twelve (12) consecutive months immediately preceding the commission of the offense, or four or more violations of this, Code within twenty-four (24) consecutive months immediately preceding the commission of the offense. For the purposes of this section, a bail forfeiture shall be deemed to be a conviction for the offense charged.
- E. Public nuisance. In addition to the penalties provided by this Chapter, any condition caused or permitted to exist in violation of any of the provisions of this Code, or any other ordinance of the District, or any rule, regulation or order promulgated or issued pursuant to this Code, or the provisions of any code adopted by reference by this Code, shall be deemed a public nuisance and may be abated by the District as permitted by State law. Each day such condition continues shall be regarded as a new and separate offense.

8102. PENALTIES FOR VIOLATIONS

- A. Misdemeanor offenses. Whenever a violation of this Code, or any other ordinance of the District, or any rule, regulation or order promulgated or issued pursuant to this Code, or the provisions of any code adopted by reference by this Code, is declared to be unlawful and a misdemeanor, where no specific penalty is provided therefore, such violation shall be punished

by a fine not exceeding one thousand dollars (\$1,000.00) or imprisonment for a term not exceeding thirty (30) days, or by both such fine and imprisonment

- B. Infraction offenses. Whenever a violation of this Code, or any other ordinance of the District, or any rule, regulation or order promulgated or issued pursuant to this Code, or the provisions of any code adopted by reference by this Code, is declared to be unlawful and an infraction, where no specific penalty is provided therefore, such violation shall be punished by:
- (1) A fine not exceeding one hundred dollars (\$100.00) for a first conviction;
 - (2) A fine not exceeding two hundred dollars (\$200.00) for a second conviction of the same provision or ordinance within twelve (12) consecutive months;
 - (3) A fine not exceeding five hundred dollars (\$500.00) for each additional conviction of the same provision or ordinance within twelve (12) consecutive months.

8103. CHANGES TO GOVERNMENT CODE

If the maximum fines for infraction offenses allowed to be charged by California Government Code Section 36900(b) should increase or decrease, then the revised amounts allowed or permitted by law shall automatically be applied to this Section, as of the effective date of the change in State law.

8104. PROHIBITED ACTS

Whenever in this Code any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering or concealing such act or omission.

8105. RECORD KEEPING

All industrial users subject to the reporting requirements of this Code shall retain and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Code, and any additional records of information obtained pursuant to monitoring activities undertaken by the industrial user independent of such requirements. These records shall remain available for a period of at least three (3) years. This period shall automatically be extended for the duration of any enforcement action concerning the industrial user, or where the industrial user has been specifically notified of a longer retention period by the District Manager or the Director.

8106. FALSIFICATION OF INFORMATION

No connector shall knowingly make any false statement, representation, record, report, plan or other document or knowingly tamper with or render inaccurate any monitoring device or equipment installed or operated pursuant to this Code or of any permit issued pursuant to this Code. In addition to any punishment or remedy provided by law, any such falsification or tampering shall be grounds for revocation of any permit issued under this Code.

8107. POWER TO INSPECT

The District Manager and the Director and other duly authorized employees and agents of the District or the City of San Jose shall wear or carry an official badge or other evidence establishing his or her position as such, and upon exhibiting the proper credentials and identification shall have the right to enter upon all buildings, industrial facilities and properties for the purpose of inspection, re-inspection, observation, photographing, measurement, sampling, testing or otherwise performing such duties as may be necessary in the enforcement of the provisions of this Code or any other ordinance, rule or regulation of the District, including inspecting and copying any records relating to quantity and quality of wastewater discharges, water usage, effluent discharged, chemical usage, and hazardous waste records.

8108. NOTICE OF VIOLATION WHICH CAN BE CURED BY CORRECTIVE ACTION

- A. Where the District finds a person to be violating any provision of this Code or any other ordinance of the District, or any rule, regulation or order promulgated or issued pursuant to this Code, or the provisions of any code adopted by reference by this Code, and the violation can be cured by the person taking appropriate corrective action, such person shall be served by the

District Manager or other enforcement officer with written notice stating the nature of the violation, the corrective action required to be taken, and providing a reasonable time limit for the completion of such action to the satisfaction of the District Manager or enforcement officer.

- B. The notice of violation required by this Section can be satisfied through the issuance of an administrative citation pursuant to Article 2 of this Chapter or the issuance of an administrative compliance order pursuant to Article 3 of this Chapter.
- C. Notwithstanding the foregoing, where the violation constitutes an immediate threat to the public health or safety or an immediate risk of damage to any of the District's facilities or equipment, the notice may be given verbally to the responsible party and may require that immediate corrective action be taken.

8109. CORRECTION OF VIOLATION BY DISTRICT

At its option, the District may correct any violation described in this Chapter. As authorized by Section 6523.3 of the California Health and Safety Code, the cost of such correction may be added to any sewer service charge payable by the person committing the violation or the owner or tenant of the property upon which the violation occurred, and the District shall have such remedies for the collection of such costs as it has for the collection of sewer service charges. The District may also petition the superior court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, restraining any person from the continued violation of any ordinance, rule, regulation or order of the District.

8110. RECORDED NOTICE OF CODE VIOLATION

- A. Whenever the District Manager has knowledge of a violation of any provision of this Code, or any other ordinance of the District, or any rule, regulation or order promulgated or issued pursuant to this Code, or the provisions of any code adopted by reference by this Code, and such violation is located upon any real property in the District, the District Manager may notify the owner of the such property upon which the violation is located of the District Manager's intent to record a notice of violation in the office of the County Recorder. Such notice of intent shall be mailed to the owner at the address shown on the latest available assessment roll, or as otherwise known to the District Manager, and a copy thereof shall be posted upon the property. The notice of intent shall describe the nature of the violation and inform the owner that a notice of violation will be recorded unless a hearing before the Sanitary Board is requested by the owner within 20 days from the date of the notice.
- B. In the event a hearing is not requested and the violation has not been corrected, or in the event that after the conduct of a hearing before the Sanitary Board, and consideration of all evidence presented thereat by the owner, the Sanitary Board determines that a violation of one or more of the aforementioned codes, ordinances, rules, regulations, or orders in fact exists, the District Manager may record a Notice of Code Violation in the office of the County Recorder. The determination by the Sanitary Board shall be final, subject only to judicial review as allowed by law.
- C. At the request of the affected property owner or other interested person and upon determination by the District Manager that a violation has been fully corrected and no longer exists, the District Manager shall furnish to the owner or other interested person a notice of cancellation of the previously recorded Notice of Code Violation.
- D. The recording of a notice of violation pursuant to this Section shall be in addition to any other rights, remedies or actions available to the District by reason of the same violation as described in the notice.

8111. TERMINATION OR SUSPENSION OF SEWER SERVICE

- A. **Termination of service.** The District may terminate sewer service being provided to property on which a violation is found to exist of any provision of this Code, or any other ordinance of the District, or any rule, regulation or order promulgated or issued pursuant to this Code, or the provisions of any code adopted by reference by this Code. Prior to termination of service, the Sanitary Board shall give written notice to the owner and tenant, if any, of such property that sewer service is intended to be terminated. Such notice shall be mailed to the owner at the address shown on the latest available assessment roll, or as otherwise known to the District Clerk, and a copy shall be delivered to the tenant, if any, or posted conspicuously on the property. The notice shall state the date of the proposed termination of service and the reasons therefor and the date the Sanitary Board shall hold a hearing upon such intended termination. Such hearing shall not be held less than ten (10) days subsequent to the giving of notice as herein required.
- B. **Suspension of service.** When deemed necessary by the District Manager for the preservation of public health or safety or for the protection of public or private property, the District Manager may temporarily suspend sewer service to any person or persons using the sanitary sewer system in a manner or way as to create an immediate danger to the public health or safety or public or private property, and in this regard sever from the public sewer all pertinent connections thereto. The District Manager shall endeavor to give notice of the intended suspension of service to the owner or tenant of the property on which hazard exists, but if such notice cannot be accomplished prior to the suspension of service, the District Manger shall give notice as soon thereafter as reasonably possible.
- C. **Payment of District costs.** As a condition for the reconnection of any property for which sewer service has been terminated or suspended pursuant to this Section, the District shall be entitled to collect all costs and expenses that have been or will be incurred in, connection with the termination or suspension of service and the reconnection and resumption of service, including the cost of conducting any proceedings required by this Chapter.
- D. **Remedies cumulative.** The remedies provided by this Section to terminate or suspend sewer service are not exclusive and shall be in addition to any and all other rights and remedies available to the District by reason of the conditions or circumstances constituting the basis for the termination or suspension of service.

8112. LIABILITY FOR LOSS OR DAMAGE

Any person violating any of the provisions of this Code or any other ordinance of the District, or any rule, regulation or order promulgated or issued pursuant to this Code, or the provisions of any code adopted by reference by this Code shall become liable to the District for any expense, loss or damage occasioned by the District by reason of such violation.

ARTICLE 2: ADMINISTRATIVE CITATIONS

8201. APPLICABILITY OF ARTICLE

- A. This Article provides for administrative citations and fines which are in addition to all other civil legal remedies and which are an alternative to criminal legal remedies that may be pursued by the District to address any violation of this Code, or any other ordinance of the District, or any rule, regulation or order promulgated or issued pursuant to this Code, or the provisions of any code adopted by reference by this Code, or any condition of an approval or permit granted pursuant to this Code.
- B. Use of the remedies and procedures of this Article shall be at the sole discretion of the enforcement officers. The availability of the remedies and procedures of this Article are not exclusive and shall not limit or preclude the use of criminal or other civil code enforcement

proceedings, including issuance of an administrative compliance order pursuant to Article 3 of this Chapter and commencement of judicial injunctive or abatement proceedings.

8202. ADMINISTRATIVE CITATION

- A. Whenever an enforcement officer determines that a violation of any applicable law has occurred, the enforcement officer shall have authority to issue an administrative citation to any responsible person.
- B. Each administrative citation shall contain the following information:
 - (1) The name(s) and address(es) of the responsible person(s).
 - (2) The date(s) of the violation.
 - (3) The address or a definitive description of the location where the violation occurred.
 - (4) The section or provision of the applicable law which has been violated and a description of the violation.
 - (5) A prohibition of the continuation or repeated occurrence of the violation described in the administrative citation.
 - (6) A description of the potential consequences should the violator continue or repeat the violation.
 - (7) Either:
 - a) The amount of the administrative fine charged and to be paid by the responsible person as a result of the violation; or
 - b) In the case of certain continuing violations described in Section 8101 of this Chapter, the amount of the administrative fine that will become payable if the violation is not corrected or remedied within the prescribed time.
 - (8) A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid and the process by which the District may collect any unpaid amounts owed.
 - (9) A description of the administrative citation review process, including the time within which the administrative citation may be contested and how to obtain a form to contest the administrative citation.
 - (10) The name and signature of the citing enforcement officer.
- C. An administrative citation may be in letter form or any other form which adequately conveys the information set forth above.

8203. SERVICE OF ADMINISTRATIVE CITATIONS

- A. Art administrative citation may be served in one of the following ways, as may be applicable:
 - (1) By personal delivery to the responsible person; or
 - (2) By causing a copy of the citation to be sent by certified mail, postage prepaid, return receipt requested, addressed to a location reasonably calculated to give notice to the responsible person, as determined by the enforcement officer. If the violation involves any real property, the notice may be sent to the address of the owner as it appears in the most recently adopted assessment roll of the County.
 - (3) If any citation sent by certified mail is not delivered by reason the U.S. Postal Service being unable to obtain a signed receipt and the failure of the addressee to thereafter claim the mail from the post office, the citation may then be sent to the responsible person by regular mail.
 - (4) Where personal delivery or service by mail upon a property owner cannot be made despite a diligent effort, the citation may be served by posting a copy thereof at a conspicuous location on any real property that is the subject of the citation.
- B. Service of a citation which is personally served is completed at the time of such personal service. Service of a citation which is served by certified mail shall be deemed completed on the date

the receipt is signed. Service of a citation which is served by regular mail which is not returned by the U. S. Postal Service shall be deemed completed on the third business day after deposit of the citation in the U.S. Mail. Service of a citation which is served by posting is completed at the time of posting.

- C. The failure of any person to receive a copy of an administrative citation shall not affect the validity of any proceedings or actions taken under this Article. A copy of the return receipt or affidavit of mailing, or a copy of the posted citation along with an affidavit of posting, shall be retained by the enforcement officer.

8204. TIME PERIOD TO CORRECT AND REMEDY CONTINUING VIOLATIONS

- A. Where the violation of an applicable law is a continuing violation pertaining to building, plumbing, electrical, or other similar structural issues that do not create an immediate danger to health or safety, the responsible person shall be provided a reasonable amount of time, but not less than ten (10) days in which to correct or otherwise remedy the violation.
- B. The enforcement officer may extend the time in which to correct or otherwise remedy a violation upon a showing that the responsible person requires additional time to complete the corrective work or upon a showing that the responsible person is awaiting issuance of a permit that is required for performance of the corrective work, provided the responsible person offers proof that action has been commenced to correct or otherwise remedy the violation or that a proper application for such permit has been made.
- C. If the violation is not corrected or remedied within the time required by the enforcement officer, the fine specified in the administrative citation shall become immediately due and payable.

8205. AMOUNT OF ADMINISTRATIVE CITATION FINES

- A. Amount of fine. Any party to whom an administrative citation has been issued shall be responsible for payment of a fine for violating the applicable law specified in the citation, determined as follows:
 - (1) One hundred dollars (\$100.00) for a first citation;
 - (2) Two hundred dollars (\$200.00) for a second citation for the same violation within twelve (12) consecutive months;
 - (3) Five hundred dollars (\$500.00) for each additional citation for the same violation within twelve (12) consecutive months.
- B. Changes to Government Code. If the maximum fines for infraction offenses allowed to be charged by California Government Code Section 530610.4 should increase or decrease, then the revised amounts allowed or permitted by law shall automatically be applied to this Section, as of the effective date of the change in State law.

8206. APPEAL OF AN ADMINISTRATIVE CITATION

- A. Any recipient of an administrative citation who desires to contest that a violation has occurred or that the recipient is the party responsible for committing the violation may, within ten (10) days from the date that service of the administrative citation was completed, file a written notice of appeal with the District Clerk for the matter to be heard by a hearing officer. Any appeal not timely filed shall be rejected.
- B. The notice of appeal shall contain the following information:
 - (1) Name, mailing address, and telephone number of each appellant.
 - (2) A copy of the administrative citation or the reference number of the administrative citation.

- (3) A brief statement in ordinary and concise language of the specific items protested, together with any material facts claimed to support the contentions of the appellant.
 - (4) A brief statement in ordinary and concise language of the relief sought and the reasons why the administrative citation should be rescinded, modified or otherwise set aside.
 - (5) The signature of each appellant.
- C. The notice of appeal shall be accompanied by either an advance deposit of the total fine amount or a completed application for advance deposit waiver as described in Section 8207 of this Article. Any notice of appeal filed without payment of the advance deposit or submittal of the advance deposit waiver application shall be deemed incomplete.
 - D. The person requesting the hearing shall be notified of the time and place set for the hearing pursuant to Section 8209.A of this Article.
 - E. If the enforcement officer submits an additional written report concerning the administrative citation to the hearing officer for consideration, then a copy of this report also shall be served on the appellant at least five (5) business days prior to the date of the hearing.
 - F. Enforcement of the administrative citation shall be stayed during the pendency of an appeal which is properly and timely filed.

8207. ADVANCE DEPOSIT HARDSHIP WAIVER

- A. Any person who intends to request a hearing to contest an administrative citation and who is financially unable to make the advance deposit of the fine, as required in Section 8206.C., may file an application for advance deposit hardship waiver. The application shall be on a form available from the District Clerk's office and shall be accompanied by a sworn affidavit as described in Subsection B below.
- B. The District Manager or designee may waive the requirement of an advance deposit and issue the advance deposit hardship waiver only if the cited person submits to the District a sworn affidavit, together with any supporting documents or materials, demonstrating to the satisfaction of the District Manager or designee the person's actual financial inability to deposit with the District the full amount of the fine in advance of the hearing. In determining the cited person's financial ability or inability to deposit the full amount of the fine in advance, the District Manager or designee shall consider the amount of the fine imposed, the income and assets of the cited person, the expenses of the cited person, and any other factors that are reasonably related to the cited person's ability to deposit the full amount.
- C. The requirement of depositing the full amount of the fine as described in Section 8206.C. shall be stayed unless the District makes a determination not to issue the advance deposit: hardship waiver. The District Manager or designee must either grant or deny the application for a waiver within a reasonable period of time, taking into account the complexity of the data pertinent to the application.
- D. If the application for an advance deposit hardship waiver is denied, a written determination listing the reasons for the denial shall be issued and shall be served by mail upon the person who applied for the waiver. The written determination to deny the waiver shall be final.

8208. FAILURE TO TIMELY APPEAL ADMINISTRATIVE CITATION

Failure to timely and properly file an appeal from an administrative citation, or the failure to make an advance deposit of the full amount of the fine within ten (10) days after service of a written denial of the cited person's application for an advance deposit hardship waiver, shall constitute a relinquishment of all rights to an appeal hearing. In such event, the determination that the violation occurred and that the cited person was responsible for the violation shall be deemed final on the date that service of the administrative citation is deemed completed pursuant to Section 8203 of this Article.

8209. HEARING ON ADMINISTRATIVE CITATION BEFORE HEARING OFFICER

- A. A hearing before the hearing officer shall be set for a date that is not less than ten (10) days and not more than sixty (60) days from the date that a notice of hearing is issued, unless the hearing officer determines that the matter is urgent and needs to be heard sooner or that good cause exists for an extension of time. Notice of the hearing shall be sent by regular mail to the cited person at the address shown on the notice of appeal.
- B. No hearing to contest an administrative citation shall be held unless the fine set forth in Section 8205 has been deposited in advance, or an advance deposit hardship waiver application has been granted by the District pursuant to Section 8207.
- C. The hearing serves to provide the cited person the full opportunity to object to the determination that a violation has occurred, and/or that the violation has continued to exist, and/or that the cited person is responsible for the violation. The cited person may appear personally or through an attorney and shall have the opportunity to testify, present evidence, and cross-examine witnesses concerning the administrative citation.
- D. The hearing officer shall consider any written or oral evidence submitted that is relevant to the matter. Formal rules of evidence do not apply. The administrative citation and any additional report submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents. All hearings shall be open and public.
- E. The hearing officer may continue the hearing and request additional information from the enforcement officer or the person(s) accused of a violation prior to issuing a written decision.
- F. The failure of the cited person to appear at the hearing after proper notice or, in the alternative, to present evidence for consideration at the hearing, shall constitute a forfeiture of the fine and failure to exhaust administrative remedies that may bar judicial review.

8210. HEARING OFFICER'S DECISION ON ADMINISTRATIVE CITATION

- A. Within a reasonable time following the conclusion of the hearing, the hearing officer shall make findings and issue a determination, a copy of which shall be provided to both the responsible party and the enforcement officer.
- B. If the hearing officer finds that no violation has occurred or that the cited person was not responsible for the violation, the hearing officer shall issue a finding of those facts. If the hearing officer determines that an administrative citation should be cancelled, the District shall promptly refund the amount of the fine. If the hearing officer upholds the violation, the District shall retain any fines paid or shall be entitled to collect the fines owing but unpaid.
- C. If the violation is upheld, the hearing officer may assess administrative costs against the violator from the date on which compliance was ordered. The administrative costs may include any and all costs incurred by the District in connection with the matter before the hearing officer, including, but not limited to, costs of inspection, investigation, staffing costs incurred in preparation for the hearing and costs to conduct the hearing.
- D. The decision of the hearing officer shall be final upon service on the responsible person, subject only to judicial review as allowed by law.

8211. RIGHT TO JUDICIAL REVIEW

- A. Within twenty (20) days after service of the final decision of the hearing officer, a person' contesting that decision may seek judicial review by filing an appeal to be heard by the superior court for Santa Clara County pursuant to Government Code Section 53069.4.

- B. If no notice of appeal is filed within the time specified in Paragraph A of this Section, the decision of the hearing officer shall be deemed confirmed.

8212. PAYMENT OF ADMINISTRATIVE FINE AND COSTS

In the absence of a timely and proper appeal by the responsible person, the administrative fine shall be paid in full within thirty (30) days from the date the citation is served upon the responsible person pursuant to Section 8208. Where a timely and proper appeal has been filed and the violation is upheld, any fine and administrative costs owed to the District shall be paid in full within thirty (30) days after the date the decision of the hearing officer is served on the responsible person.

Payment of any fine and administrative costs shall not excuse the failure to correct the violation, nor shall it bar further enforcement action by the District for any continuation or repeated occurrence of the violation that was the subject of the original enforcement action, or any other violation of an applicable law.

Any person who fails to pay to the District the amount imposed as a fine or administrative cost within the time prescribed in this Article shall be liable for payment of a late charge thereon in an amount equal to one percent (1%) per month of the delinquent payment from the date such payment became due until the date it is paid in full.

The District shall be entitled to collect all fines, administrative costs, and late charges owed to it pursuant to this Article by use of all available legal means, and the same may be collected as:

A personal obligation of the responsible person; and/or

A lien upon real property, if the violation is in connection with such property, in accordance with the provisions of Section 8213 of this Article.

8213. LIEN PROCEDURE

Upon a determination that any administrative fine and/or administrative cost owed to the District pursuant to this Article has not been paid in full within ninety (90) days from the date the same became due, and in cases where the violation involves any real property, the District may elect to collect such amounts by means of a recorded lien against such property pursuant to this Section.

Prior to recordation of the lien, the enforcement official shall prepare and file with the District Clerk a report stating the amounts due and owing, the date of the citation, the street address and assessor's parcel number of the subject property, and the name and address of the record owner of the property. The report shall be accompanied by a copy of the decision by the hearing officer, if any. The District Clerk shall fix a time, date and place for the Sanitary Board to consider such report and hear any protests or objections thereto. A copy of the report along with a written notice of the Sanitary Board hearing thereon shall be served on each property owner whose interest is shown on the most recently adopted assessment roll of the County not less than ten (10) days prior to the date set for the hearing.

Any person owning a legal or equitable interest in the real property proposed to be subject to a lien pursuant to this Section may file a written protest with the Sanitary Board and may protest orally at the Sanitary Board hearing. The grounds for protest or objection, and any evidence or testimony submitted in support or in opposition to the imposition of a lien, shall be confined to whether the amount of any administrative fine or administrative cost imposed was paid in full or was successfully challenged by a writ of mandate or other proceeding. At the close of the hearing, the Sanitary Board shall adopt a resolution confirming, discharging, or modifying the amount of the lien based upon evidence produced at the hearing.

If the lien, or any portion thereof, is confirmed by the Sanitary Board, the District Clerk shall record the same in the office of the County Recorder as a judgment lien against the subject property. Once recorded, such lien shall have the force and effect and priority of a judgment lien governed by the provisions of

Section 697.340 of the Code of Civil Procedure, and may be extended as provided in Section 683.110 to 683.220, inclusive, of the Code of Civil Procedure.

A lien recorded pursuant to this Section may be foreclosed by an action brought by the District for a money judgment.

Once payment in full is received by the District, the District Clerk shall either record notice of satisfaction or provide the property owner with a notice of satisfaction so the owner may record the notice with the County Recorder. Such notice of satisfaction shall cancel the District's lien.

ARTICLE 3: ADMINISTRATIVE COMPLIANCE ORDERS

8301. APPLICABILITY OF ARTICLE

This Article provides for administrative remedies which are in addition to all other civil legal remedies and which are an alternative to criminal legal remedies that may be pursued by the District to address any violation of this Code, or any other ordinance of the District, or any rule, regulation or order promulgated or issued pursuant to this Code, or the provisions of any code adopted by reference by this Code, or any condition of an approval or permit granted pursuant to this Code.

Use of the remedies and procedures of this Article shall be at the sole discretion of the enforcement officers. The availability of the remedies and procedures of this Article are , not exclusive and shall not limit or preclude the use of criminal or other civil code enforcement proceedings, including issuance of an administrative citation pursuant to Article 2 of this Code and commencement of judicial injunctive or abatement proceedings.

8302. COMPLIANCE ORDER

- A. Whenever an enforcement officer determines that a violation of any applicable law has occurred, the enforcement officer shall have authority to issue a written administrative compliance order to any responsible person.
- B. Each administrative compliance order shall contain the following information:
 - 1. The name(s) and address(es) of the responsible person(s).
 - 2. The date(s) of the violation.
 - 3. The address or a definitive description of the location where the violation occurred.
 - 4. The section or provision of the applicable law which has been violated and a description of the violation.
 - 5. The action required to correct the violation.
 - 6. The time period after which administrative penalties will begin to accrue if compliance with the order has not been achieved, and the amount of penalties that will begin to accrue.
 - 7. Either a copy of this Article or an explanation of the consequences of noncompliance with the compliance order and a description of the hearing procedure and appeal process for contesting the compliance order.
 - 8. The name and signature of the enforcement officer issuing the compliance order.

8303. SERVICE OF COMPLIANCE ORDER

- A. An administrative compliance order may be served in any of the following ways, as may be applicable:
 - 1. By personal delivery to the responsible person; or
 - 2. By causing a copy of the compliance order to be sent by certified mail, postage prepaid, return receipt requested, addressed to a location reasonably calculated to give notice to the responsible person, as determined by the enforcement officer. If the violation involves any

real property, the notice may be sent to the address of the owner as it appears in the most recently adopted assessment roll of the County.

3. If any compliance order sent by certified mail is not delivered by reason the U.S. Postal Service being unable to obtain a signed receipt and the failure of the addressee to thereafter claim the mail from the post office, the compliance order may then be sent to the responsible person by regular mail.
 4. Where personal delivery or service by mail upon a property owner cannot be made despite a diligent effort, the compliance order may be served by posting a copy thereof at a conspicuous location on any real property that is the subject of the order.
- B. Service of a compliance order which is personally served is completed at the time of such personal service. Service of a compliance order which is served by certified mail shall be deemed completed on the date the receipt is signed. Service of a compliance order which is served by regular mail which is not returned by the U. S. Postal Service shall be deemed completed on the third business day after deposit of the order in the U.S. Mail. Service of a compliance order which is served by posting is completed at the time of posting.
- C. The failure of any person to receive a copy of a compliance order shall not affect the validity of any proceedings or actions taken under this Article. A copy of the return receipt or affidavit of mailing, or a copy of the posted compliance order along with an affidavit of posting, shall be retained by the enforcement officer.

8304. NOTICE OF HEARING

- A. If the enforcement officer determines that all violations have been corrected within the time specified in the compliance order, or within such additional time as may be allowed by any amended order, the enforcement officer shall so advise each party to whom the compliance order was addressed.
- B. If full compliance is not achieved within the time specified in the compliance order or any amended order, the enforcement officer shall schedule a hearing before a hearing officer. The hearing shall be set for a date that is not less than ten (10) days and not more than sixty (60) days from the date that a notice of hearing is issued, unless the hearing officer determines that the matter is urgent and needs to be heard sooner or that good cause exists for an extension of time. Notice of the hearing shall be sent by regular mail to each responsible person named in the compliance order.

8305. HEARING ON COMPLIANCE ORDER BEFORE HEARING OFFICER

- A. The hearing serves to provide the full opportunity to the person subject to a compliance order to object to the determination that a violation has occurred, and/or that the violation has continued to exist, and/or that the person subject to the compliance order is responsible for the violation. The person subject to the compliance order may appear personally or through an attorney and shall have the opportunity to testify, present evidence, and cross-examine witnesses concerning the compliance order.
- B. The hearing officer shall consider any written or oral evidence submitted that is relevant to the compliance order. Formal rules of evidence do not apply. The compliance order shall constitute prima facie evidence of the facts set forth therein. All hearings shall be open and public.
- C. The hearing officer may continue the hearing and request additional information from the enforcement officer or the person subject to the compliance order prior to issuing a written decision.
- D. The failure of the person subject to the compliance order to appear at the hearing after proper notice or, in the alternative, to present evidence for consideration at the hearing, shall constitute a failure to exhaust administrative remedies that may bar judicial review.

8306. HEARING OFFICER'S DECISION ON COMPLIANCE ORDER

Within a reasonable time following the conclusion of the hearing, the hearing officer shall make findings and issue a decision regarding the existence of the violation and the extent of compliance with the order. The hearing officer shall issue written findings on each violation specified in the compliance order. A copy of the decision shall be provided to both the person subject to the compliance order and the enforcement officer.

If the hearing officer finds that a violation has occurred and has not been corrected within the time specified in the compliance order, and further finds that any person subject to the compliance order is responsible for such violation, the hearing officer shall issue an administrative order pursuant to Section 8307 of this Article.

If the hearing officer finds that no violation has occurred, or that the violation has been fully corrected, or that the person subject to the compliance order is not responsible for the violation, the hearing officer shall rescind the compliance order and direct that no further proceedings be conducted thereon.

8307. ADMINISTRATIVE ORDER

- A. An administrative order issued by the hearing officer following a determination that a violation has occurred, has not been corrected, and that the person subject to the order is responsible for the violation,- shall impose any or all of the following:
 - 1. An order to correct the violation, including a schedule for performance of the corrective work if appropriate.
 - 2. Payment of administrative penalties as provided in this Article.
 - 3. Payment of administrative costs as provided in this Article.
- B. The administrative order of the hearing officer is final at the time it is made; however, the hearing officer shall retain continuing jurisdiction over the violation that is the subject of the order and shall have the power to modify the administrative order, after providing the person subject to the order with notice and an opportunity to be heard, until full compliance with the order is achieved.

8308. ADMINISTRATIVE PENALTIES

- A. The hearing officer may impose administrative penalties for each day during which a violation is continued after the date when compliance was ordered to be achieved, in an amount not to exceed the maximum provided in a schedule of administrative penalties as adopted from time to time by resolution of the Sanitary Board and in effect as of the date on which the administrative order is issued.
- B. In determining the amount of the administrative penalty, and subject to the limitation set forth in Paragraph C of this Section, the hearing officer may take any or all of the following factors into consideration:
 - 1. The duration of the violation;
 - 2. The frequency, recurrence, and number of violations, related or unrelated, by the same violator;
 - 3. The seriousness of the violation;
 - 4. The good faith efforts of the violator to come into compliance;
 - 5. The impact of the violation on the community;
 - 6. Such other factors as justice may require.
- C. If the violation of applicable law would otherwise constitute an infraction offense, the administrative penalty that may be imposed per day for each separate violation shall not exceed the amount allowed or permitted by California Government Code Section 53069.4.

- D. Administrative penalties imposed by the hearing officer shall accrue on a daily basis from the date specified in the administrative order, and shall be payable at the time and in the manner prescribed by the administrative order. The administrative penalties shall cease to accrue on the date the violation is corrected to the reasonable satisfaction of the enforcement officer, as evidenced by a final inspection approval signed by the enforcement officer.
- E. The hearing officer may suspend the imposition of administrative penalties for any period of time during which:
 - 1. The violator has applied for any permits that are required for performance of the corrective work; and
 - 2. Such permit applications are actively pending before the District or other governmental agency responsible for issuance thereof.

8309. ADMINISTRATIVE COSTS

- A. The hearing officer may assess administrative costs against the violator when the hearing officer determines that a violation has occurred and the violator failed to correct such violation within the time specified in the administrative compliance order.
- B. The administrative costs may include any and all costs incurred by the District in connection with the matter before the hearing officer, including, but not limited to, costs of inspection, investigation, staffing costs incurred in preparation for the hearing and costs to conduct the hearing, and costs for all re-inspections necessary to enforce the administrative order.

8310. RIGHT TO JUDICIAL REVIEW

- A. Within twenty (20) days after service of the final decision of the hearing officer, a person contesting that decision may seek judicial review by filing an appeal to be heard by the superior court for Santa Clara County pursuant to Government Code Section 53069.4.
- B. if no notice of appeal is filed within the time specified in Paragraph A of this Section, the decision of the hearing officer shall be deemed confirmed.

8311. FAILURE TO COMPLY WITH ADMINISTRATIVE ORDER

- A. Payment of any penalties and administrative costs shall not excuse the failure to correct the violation, nor shall it bar further enforcement action by the District for any continuation or repeated occurrence of the violation that was the subject of the original compliance order, or any other violation of an applicable law.
- B. Any person who fails to pay the District the amount imposed as an administrative penalty or administrative cost within the time prescribed in the administrative order shall be liable for payment of a late charge thereon in an amount equal to one percent (1%) per month of the delinquent payment from the date such payment became due until the date it is paid in full.
- C. The District shall be entitled to collect all administrative penalties, administrative costs, and late charges owed to it pursuant to this Article by use of all available legal means, and the same may be collected as:
 - a. A personal obligation of the person subject to the administrative order; and/or
 - b. A lien upon real property, if the violation is in connection with such property, in accordance with the provisions of Section 8213 of this Article.

CHAPTER IX - MISCELLANEOUS PROVISIONS

ARTICLE 1: SUSPENSION OR MODIFICATION OF REQUIREMENTS

9100. AUTHORITY TO SUSPEND OR MODIFY REQUIREMENTS

- A. The Sanitary Board shall have authority to suspend or modify any of the standards or requirements set forth in this Code, provided the Board is able to make all of the findings required by Section 9102 of this Article. The suspension or modification may be in response to an application filed by a property owner or discharger, or by the Sanitary Board on its own motion.
- B. The suspension or modification may be granted only with respect to a particular premises and shall be limited to either a specific period of time, or only during such period in which a particular use or activity is conducted upon the premises. The suspension or modification may be granted subject to any conditions or requirements the Board deems appropriate.
- C. The Sanitary Board shall retain continuing jurisdiction over the suspension or modification and may revoke the same or impose additional or modified conditions and requirements at any time upon notice to the property owner or discharger of the intended action and the conduct of the hearing thereon by the Board.
- D. This Article may not be utilized to establish a permanent suspension or modification of any standard or requirement contained in this Code or to establish any suspension or modification having general application throughout the District, and either of such actions shall require an amendment of this Code in the manner provided by law.

9101. APPLICATION FOR SUSPENSION OR MODIFICATION

- A. Any property owner or discharger may request a suspension or modification of any standard or requirement contained in this Code by filing an application with the District Clerk on such form as the District may prescribe. The application shall be accompanied by payment of a processing fee in such amount as may be established from time to time by resolution of the Sanitary Board.
- B. The application shall include the following information:
 - (1) The name, address and telephone number of the applicant.
 - (2) The address and description of the premises or location of the use or activity that would be subject to the suspension or modification.
 - (3) Identification of any wastewater discharge permit or other permit or approval issued by the District or the Director pertaining to the premises.
 - (4) A detailed description of the operations conducted by the applicant upon the premises.
 - (5) Identification of the specific standard or requirement for which a suspension or modification is requested and a detailed description of the desired suspension or modification,
 - (6) A statement of the reasons and justification for granting the suspension or modification.
 - (7) Such other information and documents as may be requested by the District Manager in order to deem the application sufficiently complete for processing and presentation to the Sanitary Board.
- C. In addition to payment of the application fee as required by Paragraph A of this Section, the applicant shall also pay the cost of any environmental review under CEQA that the District Manager determines is necessary, including the cost of any consultants retained by the District to prepare an environmental assessment, negative declaration, or environmental impact report, and the cost of filing any notice of determination.

9102. FINDINGS REQUIRED FOR GRANTING MODIFICATION

The Sanitary Board shall not grant any suspension or modification, whether by approval of an application or upon its own motion, unless the Board is able to make all of the following findings:

- A. There are exceptional or extraordinary circumstances that are unique to the premises or the particular use or activity conducted thereon that are not shared by other properties or uses within the District.
- B. The proposed suspension or modification will not violate any statute, ordinance, rule, regulation, or order of any other federal, state or county regulatory authority having jurisdiction.
- C. The proposed suspension or modification will not violate any contract or agreement to which the District is a party, including agreements related to the sewage treatment plant and use of sewer lines operated by any other agency.
- D. The proposed suspension or modification will not violate any operational standard or requirement of the sewage treatment plant in the absence of a written consent to such suspension or modification having been granted by the Director.
- E. The proposed suspension or modification will not create a risk of injury, damage, excessive use or burden, or any other adverse impact upon the District's sanitary sewer system, or upon any facilities at the treatment plant, or upon any personnel of either the District or the treatment plant.

ARTICLE 2: APPEALS TO SANITARY BOARD

9200. APPEALS FROM ADMINISTRATIVE DECISIONS

Except where an appeals procedure is otherwise specifically set forth in this Code, an interested person objecting to the whole or any portion of a final administrative determination or decision made by the District Manager or the District Engineer, where such determination or decision involves the exercise of administrative discretion or personal judgment pursuant to any of the provisions of this Code, may appeal to the Sanitary Board by filing with the District Clerk a notice of appeal clearly identifying the determination or decision from which the appeal is taken and stating the grounds for the appeal. The notice of appeal shall be accompanied by the payment of a filing fee in such amount as may be established from time to time by resolution of the Sanitary Board.

9201. NO APPEAL FROM MINISTERIAL ACTS

No right of appeal to the Sanitary Board shall exist when the decision or action is ministerial and does not involve the exercise of administrative discretion or personal judgment pursuant to any of the provisions of this Code.

9202. TIME LIMIT ON NOTICE OF APPEAL

The appellant shall file the notice of appeal with the District Clerk and pay the filing fee thereon within ten (10) days after the date on which the final determination or decision is rendered.

9203. CONDUCT OF HEARING BY SANITARY BOARD

The Sanitary Board shall conduct a de novo review on the appeal, but no public hearing shall be required unless the determination or decision was made in connection with the proceeding which required a public hearing; provided, however, that nothing herein shall prevent the Sanitary Board, in its discretion, from receiving testimony or other evidence from any person pertaining to the subject matter of the appeal.

9204. DECISION BY SANITARY BOARD

The Sanitary Board may affirm, reverse or modify the determination or decision which is the subject of the appeal, and may refer the matter back to the original maker of the determination or decision for such further action as may be directed by the Sanitary Board. Where an appeal has been filed pertaining to only a portion of a determination or decision, the Sanitary Board shall have authority to review the entire matter and may affirm, reverse or modify all or any other portion of the determination or decision notwithstanding the fact that no appeal has been taken therefrom.

9205. TIME LIMIT FOR JUDICIAL REVIEW

Any action or proceeding to attack, review, set aside, void or annul a decision by the Sanitary Board on an appeal taken pursuant to this Article, or any of the proceedings, acts or determinations taken, done or made prior to such decision, or to determine the reasonableness, legality or validity of any condition attached thereto, shall be commenced within ninety (90) days after the date the final decision is rendered by the Sanitary Board and shall be governed by the provisions of Section 1094.5 of the California Code of Civil Procedure.

ARTICLE 3: LATERAL LOAN PROGRAM

9300. DISTRICT POLICY

The District has established a program for providing loans to owners of property located within the District, to be used for payment of costs related to the physical upgrading of privately-owned sewer laterals and cleanouts.

9301. FUNDING

Funding for the loan is provided by the Sewer Enterprise Fund of the Cupertino Sanitary District. The amount of the loan program is established annually as approved by the Board Directors.

Loans will be available only to registered owners of property located within the boundaries of the District, as shown in the latest revised tax roll for the District. Loans will be available to a maximum of \$2,500 per property. The annual interest rate for loans will be at Wall Street Journal Prime Rate in effect at time of loan. The amortization period for repayment of the loan shall be five (5) years. Repayment of loan will commence three (3) months from the date of disbursement.

9302. LOAN SECURITY

The loan shall be secured by deed of trust.