

CHAPTER 1. GENERAL PROVISIONS

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1.010 Adoption. Pursuant to the provisions of Section 4766 of the California Health and Safety Code and Section 25126-25130 of the California Government Code, there is hereby adopted the “West Valley Sanitation District of Santa Clara County, California, Ordinance Code”.
(Adopted Ord. 46, July 23, 1975; Amended by Ord. 130, October 27, 1999)

1.020 Title – Citation – Reference. This Code shall be known as the “West Valley Sanitation District Ordinance Code” and it shall be sufficient to refer to this code as the “West Valley Sanitation District Ordinance Code” in any prosecution for the violation of any provision thereof or in any proceeding at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any part or portion thereof as an addition to, amendment to, correction or repeal of, the “West Valley Sanitation District Ordinance Code”. Further, references may be had to the titles, chapters, sections and subsections of the “West Valley Sanitation District Ordinance Code” and such references shall apply to that numbered title, chapter, section or subsection as it appears in the code.
(Adopted Ord. 46, July 23, 1975; Amended by Ord. 146, June 14, 2017; Amended by Ord. 149, April 10, 2019)

1.030 Repealed by Ord. 130, October 27, 1999.

1.040 Reference Applies to All Amendments. Whenever a reference is made to this code as the “West Valley Sanitation District Ordinance Code” or to any portion thereof, or to any Ordinance of West Valley Sanitation District of Santa Clara County, California, the reference shall apply to all amendments corrections and additions heretofore, now or hereafter made.
(Adopted Ord. 46, July 23, 1975; Amended by Ord. 146, June 14, 2017; Amended by Ord. 149, April 10, 2019)

1.050 Definitions. The following words and phrases whenever used in the Ordinances of West Valley Sanitation District of Santa Clara County, California, shall be construed as defined in the section unless from the context a different meaning is intended or unless a different meaning is specifically defined or more particularly directed to the use of such words or phrases:

(A) Definitions beginning with “A”:

“**Accidental discharge**” means any discharge at a flow or concentration which could cause a violation of the discharge standards in this code or any discharge of a non-routine, episodic nature,

including, but not limited to, an accidental spill or slug.

“Accessory dwelling unit” or “ADU” means an attached or detached separate dwelling units that provide complete independent living facilities for one (1) or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated; excludes units that comply with the requirements of Government Code Section 65852.22.

“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 percent (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.

“Ammonia” means that form of nitrogen which is chemically definable as compound NH_3 .

“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.

“Authorized or Duly Authorized Representative of the User” means one of the following:

(A) For a corporation:

(1) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principle business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(2) The manager of one or more manufacturing, production, or operating facilities if the following criteria are met:

(a) The manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations;

(b) The manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and

(c) The manager has the assigned or delegated authority to sign documents in accordance with corporate procedures.

(B) For partnership or sole proprietorship: a general partner or proprietor, respectively.

(C) For a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(D) The individuals described in paragraphs A through C, above, may designate a Duly Authorized Representation in writing, specifying the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and submitting the authorization to the district manager.

(B) Definitions beginning with “B”:

“Backflow protective device” means a mechanical check valve device, that is installed on the sewer lateral, to prevent the backflow of sewage into a building space.

“Baseline Monitoring Report (BMR)” means a report which shall include all requirements of federal regulation, including but not limited to 40 CFR 403.12(b), and

(A) For New Sources and sources that become Industrial Users subsequent to the promulgation of an applicable categorical standard, submitted at least ninety (90) days prior to commencement of discharge and contain identifying information, environmental permits in place, a description of operations, flow measurements, measurements of pollutants, and the pretreatment a New Source intends to use to meet the applicable standards, including estimates of measurements;

(B) For existing Industrial Users, submitted within one hundred eighty (180) days after the effective date of a categorical Pretreatment Standard, or after the final administrative decision, and shall contain, at a minimum, identifying information, environmental permits in place, a description of operations, flow measurements, a measurement of pollutants, proper certification, and a compliance schedule as necessary.

“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 district’s sanitary sewer system.

“Best management practices” means schedules of activities, prohibitions of practices, implementation of devices and other technology, maintenance procedures and other management practices, such as, standard operating procedures, general housekeeping, or pollution prevention practices, to prevent or reduce the introduction of pollutants to the sanitary or storm sewer system

which have been approved for use by the district manager for particular industry groups, business types, or specific industrial processes. Best Management Practices may also include approved alternative means (e.g. management plans) of complying with federal, state, or local regulations.

“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 twenty degrees Celsius (20° C).

“Board” means the Board of Directors of the District.

(C) Definitions beginning with “C”:

“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.

“Categorical pretreatment standard” or “categorical standard” means any regulation containing pollutant discharge limits promulgated by the Environmental Protection Agency that apply to specific categories of users and which appear in 40 CFR 405-471.

“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).

“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.

“Commercial, industrial, and miscellaneous condominium premises” means a unit of a condominium other than a residential condominium premises, designed, improved or used for any purpose other than as a residence for one (1) or more families living separately in separate dwelling units or which is designed, improved or used as a residence for one (1) or more families living separately in separate dwelling units and for one (1) or more other purposes.

“Commercial, industrial and miscellaneous premises” means a premises, other than a single-family premises, and a multiple-family premises, designed, improved or used for any purpose or

purposes other than as a residence for one (1) or more families living separately in separate dwelling units, or which is designed, improved or used as a residence for one (1) or more families living separately in separate dwelling units and for one (1) or more other purposes.

“Composite sample” means a sample, which accurately represents the average pollutant concentration discharged during a continuous time period.

(A) A flow-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 (24) hour period, then one (1) sample must be collected from each batch discharged in that twenty-four (24) 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.

“Condominium” means an estate in real property, separately assessed, 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 or such real property, such as an apartment, office, or store. A condominium may include, in addition, a separate interest in other portions of real property.

“Connection” means the physical attachment of a premises to a public sewer by a private sewer.

“Connector” means any person who receives permission from the district to connect his premises to the district’s sanitary sewer system.

“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.

“Contractor” means any person or company who is currently licensed by the State of California Contractors State License Board and performs the work allowed by their license. Only license designations of a Class A, General Engineering, Class C-34, Pipeline, and Class C-42, Sanitary Sewer System are allowed to install or connect to public sewers with the district.

“County” means the County of Santa Clara.

“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 code, or who discharges in excess of one hundred thousand (100,000) gallons per day (gpd).

(D) Definitions beginning with “D”:

“Design standards” or “district design standards” means the District’s Sanitary Sewerage System Design Standards, current version.

“Dental amalgam” means an alloy of mercury with another metal, used by dentists to fill cavities in teeth.

“Diluting waters” means non-contact cooling water, boiler blowdown, domestic sewage, ground water, 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.

“Discharger” means any person or entity discharging wastewater into the sanitary sewer system.

“District” means West Valley Sanitation District of Santa Clara County, California.

“District manager” or “district manager and engineer” means the administrative head of the district, whose powers and duties are further set forth in Section 3.030.

“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.

“Drainage Fixture Unit” or “DFU” means a quantity in terms of which the load-producing effects on the plumbing system of different types of fixtures are expressed. DFU values are defined in Chapter 7 of the Uniform Plumbing Code (UPC).

(E) Definitions beginning with “E”:

“Enforcement officer” means any district officer, employee or agent, or any other representative of the district with the authority to enforce any duly adopted ordinance of the district.

“Existing source” means any source of discharge that is not a new source.

(F) Definitions beginning with “F”:

“Fixer solution” means a solution containing silver used in the photographic processing of dental x-

rays, x-rays and photographs.

“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, churches, schools, sporting clubs, gas stations, coffee and juice bars, or pizzerias. The term, as used in this code, does not refer to 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.

“Fund” means fiscal and accounting entity with a self-balancing set of accounts that is used to record financial activities, together with related liabilities and residual balances, and which is segregated in order to carry on certain activities or attain certain objectives in accordance with special regulations or restrictions.

(G) Definitions beginning with “G”:

“Garbage” means solid wastes from the preparation, cooking and dispensing of foods, and from the storage and sale of produce.

“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.

“Grease” or “fats, oils, and grease” or “FOG” 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. Fats, oils, and grease (FOG) is a term that is commonly used to encompass grease. **“Grease control device”** means a grease interceptor, grease trap, mechanical grease removal device or other device approved for use by the district manager.

“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 the Wastewater as it moves from one compartment of the interceptor to the next.

“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.

(H) Definitions beginning with “H”:

“**Hearing officer**” means a person designated by the district manager who has no connection to the enforcement of the violation, and is not a subordinate of the enforcement officer.

(I) Definitions beginning with “I”:

“**Indirect Discharge or Discharge**” Means the introduction of pollutants or any discharge or wastewater to the sanitary system.

“**Industrial user**” means any non-residential user that discharges industrial wastes to the sanitary sewer system.

“**Industrial wastes**” means the non-domestic wastes from producing, manufacturing, and processing operations of every kind and nature.

“**Interference**” means:

(A) A discharge which alone, or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the processes or operation of the district’s 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 to the plant 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.

“**Installer**” means a person, including the district, who contracts for the installation of a sewer.

(J) Definitions beginning with “J”: Reserved.

(K) Definitions beginning with “K”: Reserved.

(L) Definitions beginning with “L”:

“Low flow discharge” means an industrial discharger whose average process flow, as shown on the discharger’s application to discharge, and as measured as a rolling six-month average, is less than one thousand (1000) gallons per day.

(M) Definitions beginning with “M”:

“Maximum allowable concentration” means the highest permissible concentration or other measure of pollutant magnitude taken at a specific point in time or period in time.

“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 wastewater exiting the trap and entering the sanitary sewer collection system.

“Mobile home” means a structure transportable in one or more sections, designed and equipped to contain one (1) living unit, to be used with or without a foundation system, when connected to required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. "Mobile home" does not include a recreational vehicle or travel trailer. When installed on a foundation system (pursuant to Section 18851 of the California Health and Safety Code), a mobile home shall be deemed a fixture and a real property improvement to the real property to which it is affixed.

“Mobile home park premises” means any area or tract of land where one (1) or more mobile home lots (any area or portion of a mobile home park designated, designed or used for the occupancy of one (1) mobile home on a temporary, semi-permanent or permanent basis) are rented or leased or held out for rent or lease to accommodate mobile homes used for human residence or habitation.

“Multiple family premises” means a premises which two (2) or more separate dwelling units that is not designed, improved or used for any non-residential purpose; excludes accessory dwelling units or units that comply with the requirements of Government Code Section 65852.22.

(N) Definitions beginning with “N”:

“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, or facility totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(3) The production of wastewater generating processes of the facility 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 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 contractual obligations 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.

“Ninety (90) Day Compliance Report” Means a report which shall include all requirements of federal regulation, including but not limited to 40 CFR 403.12(d), and

(A) For a New Source, submitted within ninety (90) days following the commencement of the introduction of wastewater into the POTW, as that term is defined in 40 C.F.R. 403.3(q), and contain, at a minimum, flow measurements, a measurement of pollutants, and certification of compliance with pretreatment standards; and

(B) For Industrial Users, submitted within ninety (90) days following the final date for compliance with an applicable Pretreatment Standard and contain, at a minimum, flow measurements, a measurement of pollutants, certification of compliance with pretreatment standards and the actual production during sampling period; and for Industrial Users subject to equivalent mass or concentration limits, a reasonable measure of the long term production rate.

“Non-significant categorical industrial user” means categorical industrial user that the district manager determines to meet the following conditions:

(A) Does not discharge more than one hundred (100) gpd of total categorical process wastewater;

(B) Has consistently complied with all applicable categorical pretreatment standards; (C) Never discharges any untreated concentrated wastewater; and

(D) Submits annually a certification statement pursuant to 40 CFR 403.12(q).

(O) Definitions beginning with “O”:

“Operating day” means the period or periods of time during each twenty-four (24) hour day during which industrial wastes are being discharged from a premises into the district’s sanitary sewer system.

“Operator” means any person who owns, leases, operates, controls, or supervises a source as defined in this section.

“Ordinance” or “district ordinance code” or “ordinance code” or “code” means this District Ordinance Code, as amended, duly adopted by the West Valley Sanitation District of Santa Clara County Board of Directors.

“Owner” means any person who owns private premises that contain a source as defined in this section.

(P) Definitions beginning with “P”:

“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.

“Permit” means any written authorization required pursuant to this code or any other regulation of the district.

“Person” means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

“Person responsible” means a person(s) determined by the enforcement officer to have violated or is maintaining a violation of any district code.

“pH” means the logarithm of the reciprocal of the concentration of hydrogen ions in moles per liter of solution.

“Plant” means the San Jose-Santa Clara Reginal Wastewater Facility which is also known as the San

Jose/Santa Clara Water Pollution Control Plant.

“Plumbing system” means plumbing fixtures and traps, waste and vent pipes, and all sewer pipes within a building and extending to the building sewer connection two feet outside the building foundation or wall.

“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.

“Premises” means any lot, parcel of land, building or establishment.

“Pretreatment requirements” means any substantive or procedural requirement related to pretreatment imposed on an industrial user other than a pretreatment standard.

“Pretreatment standard” means prohibited discharge standards, including those in federal regulations such as 40 CFR 403.5, categorical pretreatment standards, and local limits.

“Priority pollutants” means all pollutants as defined by the “General Pretreatment Regulations” of the Environmental Protection Agency, found at 40 CFR 401 and 403.

“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.

“Property line cleanout” means an access point to the building sewer constructed to district standards and is typically located one (1) foot behind the property line. The property line cleanout allows district staff to gain access to the lower sewer lateral for maintenance purposes.

(Q) Definitions beginning with “Q”: Reserved.

(R) Definitions beginning with “R”:

“Reasonable control measures” means control technologies, best management practices, source control practices and waste minimization procedures which prevent or reduce the introduction of pollutants to the district’s sanitary sewer system and are determined by the district manager to be cost-effective for particular industry groups, business types, or specific industrial processes.

(S) Definitions beginning with “S”:

“Sanitary sewage” or “sewage” means water-carried wastes from residences, business buildings,

institutions, and industrial establishments.

“Sanitary sewer overflow” or “SSO” means any overflow spill, release, discharge or diversion of untreated or partially treated wastewater from a sanitary sewer system, SSOs include:

(A) Overflows or releases of untreated or partially treated wastewater that reach waters of the United States;

(B) Overflows or releases of untreated or partially treated wastewater that do not reach the waters of the United States; and

(C) Wastewater backups into buildings and on private property that are caused by blockages or flow conditions within the publicly owned portion of a sanitary sewer system.

“Sanitary sewer system” means any system of pipes, pump stations, sewer lines, or other conveyances, upstream of a wastewater treatment plant headworks used to collect and convey wastewater to the publicly owned treatment facility. Temporary storage and conveyance facilities (such as vaults, temporary piping, construction trenches, wet wells, impoundments, tanks, etc.) are considered to be part of the sanitary sewer system.

“Separate dwelling unit” means a premises or portion thereof designed for occupancy for residential purposes by one (1) family, with sleeping, kitchen and bathroom facilities provided therein for the exclusive use of said family.

“Sewer” means a pipe or conduit for holding and carrying sanitary sewage and industrial wastes, and includes manholes, vertical risers, cleanouts and all other appurtenant facilities which are necessary or convenient to the holding or carrying of sewage, classified as follows:

(A) “Branch sewer” means a sewer that receives wastewater from a relatively small area and discharges into a main sewer serving more than one (1) branch sewer area.

(B) “Building sewer” or “sewer lateral” means the extension from a building’s plumbing system to the point of connection to the branch or main sewer.

(C) “Easement sewer” means a sewer that is located within a sanitary sewer easement or public utility easement.

(D) “Intercepting sewer” means a sewer that receives wastewater flow from a number of transverse sewer outlets and conducts such waters to a point for treatment.

(E) “Lower sewer lateral” or means the lower portion of a building sewer between the property line and the connection point to a public sewer located within a public right-of-way. The lower sewer lateral is owned by the district.

(F) “Main sewer” means a sewer to which one or more branch sewers are tributary.

(G) “Outfall sewer” means a sewer that conveys treated wastewater from a treatment plant and carries it to a point of final discharge in an ocean, river, or estuary.

(H) “Private sewer” means a sewer privately owned, maintained, and used by one (1) or more properties.

(I) “Public sewer” means a sewer owned and maintained by a governmental agency.

(J) “Trunk sewer” means a sewer that receives the discharge from several main sewers and serves a large territory.

(K) “Upper sewer lateral” means the upper portion of building sewer from the plumbing system to the property line when the building sewer is connected to a public sewer located within a public right-of-way. The upper sewer lateral and property line cleanout, if installed, is privately owned.

“**Sewage treatment plant**” means any arrangement of devices and structures used for treating sanitary sewage and industrial wastes, such as the San Jose/Santa Clara Water Pollution Control Plant.

“**Significant change**” means any change in an industrial user’s operation that results in any of the following:

(A) An increase or decrease in twelve (12)-month average process flow by twenty-five percent (25%) of the industrial user’s average process flow.

(B) An increase or decrease in twelve (12)-month 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 twelve (12)-month average process flow that results in a change from non-significant categorical industrial user to significant industrial user or from significant industrial user to non-significant categorical industrial user.

(D) An increase or decrease in twelve (12)-month production rate of twenty-five percent (25%) for any industrial user subject to production-based limits over the industrial user’s production rate for the immediate preceding twelve (12) months.

(E) Adding or deleting processes discharges or sample points.

(F) Waiver of monitoring requirements for any pollutant not present.

“**Significant industrial user**” means:

(A) A categorical industrial user other than a non-significant categorical industrial User; or

(B) An industrial user that:

(1) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the district’s sanitary sewer system (excluding sanitary sewage, noncontact cooling and boiler

blowdown wastewater); or

(2) Contributes a process waste stream which makes up five percent (5%) 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. **"Significant noncompliance"** is a violation, or violations, by an industrial user meeting one or more of the following criteria:

(A) Chronic violations of wastewater discharge limits defined here as those in which sixty-six percent (66%) or more of all measurements taken during a six (6) month period exceed by any order of 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 percent (33%) or more of all measurements for each pollutant parameter taken during a six (6) 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, oils, Grease, and 1.2 for all other pollutants);

(C) Any other violation of a pretreatment standard or requirement as defined by 40 CFR 403.3 (l) such as daily maximum, ph, long-term average, instantaneous limit, or narrative standard, that the district manager determines has caused, alone or in combination with other discharges either interference or pass-through, including endangering the health of district or plant personnel and/or the general public;

(D) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or the environment or has resulted in the district'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 full compliance;

(G) Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports, ninety-day (90) compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(H) Failure to accurately report non-compliance; and

(I) Any other violation or group of violations, which may include a violation of reasonable

control measures, the district manager determines will adversely affect the operation or implementation of the pretreatment program.

“Single-family premises” means a premises with one (1) separate dwelling unit that is not designed, improved or used for any non-residential purpose.

“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 that procedural and operational controls in place to prevent a slug load or slug discharge.

“Slug load” or “slug discharge” means any discharge of a 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, pass-through, or in any other way cause a violation of the provisions of Chapter 1 or Chapter 7 or applicable permit conditions.

“Source” means any building, structure, facility or installation from which there is or may be potential as determined by the district manager to discharge pollutants above the local limits included in this Code or state or federal limits or wastewater of such volume or strength that it may cause interference, pass-through, or operational problems in the district’s sanitary sewer system or at the San Jose/Santa Clara Water Pollution Control Plant.

“Standard discharger” means any industrial user who is not a low flow discharger.

“Standard methods” means:

(A) The procedures set forth in the 40 CFR 136 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.

(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 manager prior to performance of a sample analysis.

“Storm waters” means storm water runoff, snow melt runoff, and surface runoff and drainage.

“Street” means any public highway, road, street, avenue, alley, way, or right-of-way.

“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.

“System of rules and personnel practices” means the Merit System of Rules and Personnel Practices for the Employees of West Valley Sanitation District of Santa Clara County, as amended from time to time.

(T) Definitions beginning with “T”:

“Total toxic organics” or “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. Some categorical standards (40 CFR 405-471) list the specific toxic organic compounds that are to be included in the summation.

“Trucked or hauled waste” means any waste discharged into the sanitary sewer system after being placed in a motorized vehicle for removal from the location where the waste was generated or produced.

(U) Definitions beginning with “U”:

“Unit” or “dwelling unit” means:

(A) Each individual occupancy of a commercial or industrial establishment.

(B) A separate living quarters for one (1) or more persons having separate kitchen or toilet facilities and being a single family dwelling or quarters situated in a duplex, apartment, multiple dwelling, court, trailer court, motel, hotel, townhouses, condominiums, etc.

“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.

“User” means a person whose premises is connected to a public sewer.

(V) Definitions beginning with “V”:

“Violation” means the act or instance of violating any provision of the district’s ordinance, including all existing ordinances and any future ordinance adopted after the effective date of this ordinance. Each and every day during any portion of which a violation of any provision of any district ordinance is committed, continued or permitted to continue shall constitute a separate violation. When the act or instance of violation occurs at multiple properties or businesses, each act or instance of violation at a separate property or business shall also constitute a separate violation.

(W) Definitions beginning with “W”:

“Wastewater” means the combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and storm water that may unintentionally be present.

(X) Definitions beginning with “X”: Reserved

(Y) Definitions beginning with “Y”:

“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.

(Z) Definitions beginning with “Z”:

“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 parts 405-471, that has any connection to the district’s sanitary sewer system, but does not discharge wastewater from the categorical process to the sanitary sewer.

“Zero discharger” means an industrial facility that does not discharge any wastewater except domestic wastewater to the district’s sanitary sewer system.

(Adopted by Ord. 10, Aug. 28, 1957 and amended by Ord. 38, June 8, 1972; Readopted as modified by Ord. 46, July 23, 1975; Amended by Ord. 55, May 26, 1976; Added to Section 1.050 No. 50, 51 and 52 and adopted by Ord. 72, April 8, 1981; Revised No. 40 and added No. 53, 54, 55 and 56 and adopted by Ord. 76, September 9, 1981; Revised No. 40 by Ordinance 96, Jan. 14, 1987; Amended by Ord. 117, May 12, 1993; Amended by Ord. 123, April 26, 1995; Amended by Ord. 126, November 18, 1998, Amended by Ord. 135, May 28, 2008; Amended by Ord. 137, October 28, 2009; Amended by Ord. 138, October 28, 2009; Amended by Ord. 139, October 28, 2009; Amended by Ord. 143, October 10, 2012, Amended by Ord. 145, November 12, 2014; Amended by Ord. 146, June 14, 2017; Amended by Ord. 148, May 9, 2018; Amended by Ord. 149, April 10, 2019; Amended by Ord. 152, February 12, 2020; Amended by Ord. 154, November 10, 2021)

1.060 Grammatical Interpretation. The following grammatical rules shall apply in the ordinance of the district.

(A) GENDER. Any gender includes the other genders.

(B) SINGULAR AND PLURAL. The singular number includes the plural and the plural includes the singular.

(C) TENSES. Words used in the present tense include the past and the future tenses and vice versa.

(D) USE OF WORDS AND PHRASES. Words and phrases not specifically defined shall be construed according to the context and approved usage of the language.

(Adopted by Ord. 46, July 23, 1975; Amended by Ord. 149, April 10, 2019)

1.070 Chapter and Section Headings. Chapter and section headings contained in this code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any chapter or section hereof.

(Adopted by Ord. 46, July 23, 1975; Amended by Ord. 149, April 10, 2019)

1.080 References to Specific Ordinances. The provisions of this code shall not in any manner affect matters of record which refer to, or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within the Code, but such reference shall be construed to apply to the corresponding provisions contained within this code.

(Adopted by Ord. 46, July 23, 1975; Amended by Ord. 149, April 10, 2019)

1.090 Effect of Code on Past Actions and Obligations. Neither the adoption of this code nor the repeal or amendments hereby of any ordinance or part of portion of any ordinance of the district shall be construed as a waiver of any license, fee or penalty at said effective date due and unpaid under such ordinance, nor be construed as affecting any of the provisions of such ordinances relative to the collection of any such license, fee, or penalty, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance and all rights and obligations thereunder appertaining shall continue in full force and effect.

(Adopted by Ord. 46, July 23, 1975; Amended by Ord. 146, June 14, 2017; Amended by Ord. 149, April 10, 2019)

1.100 Repeal Shall Not Revive any Ordinances. The repeal of an ordinance shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby.

(Adopted by Ord. 46, July 23, 1975; Amended by Ord. 146, June 14, 2017; Amended by Ord. 149, April 10, 2019)

1.110 Relief From Ordinances or Regulations. The board may, upon its own motion or written application, modify, suspend, or relieve the application of an ordinance or regulation if its finds that the ordinance or regulation is unjust or inequitable because of special circumstances.

(Adopted by Ord. 10, Aug. 28, 1957; Amended by Ord. 46, July 23, 1975; Amended by Ord. 149, April 10, 2019)

1.120 Removed by Ord. 130, October 27, 1999, and added to Chapter 10 as Section 10.180.

1.130 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 (1) 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.

(Adopted by Ord. 10, Aug. 28, 1957; Amended by Ord. 46, July 23, 1975; Amended by Ord. 149, April 10, 2019)