

CHAPTER 7. USE OF PUBLIC SEWERS

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7.010 Purpose. The purpose of this Chapter is to:

(A) Provide for and regulate the disposal of sanitary sewage into the district's 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 district's sanitary sewer system 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 wastes without decreasing the ability of said system to handle and dispose of all sanitary sewage.

(C) Prevent the introduction of pollutants into the district's sanitary sewer system which will pass through the treatment works of the San José/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 its biosolids.

(D) Improve opportunities to recycle and reclaim treated effluent and wastewater sludge.

(E) Protect the physical structure of the district's sanitary sewer system and the efficient functions 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 regional waterways and the San Francisco Bay.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019)

7.020 Annexation Required For Connection of Property Outside District. Property outside the district service area may not be directly or indirectly, connected to a sanitary sewer, unless the property is annexed into the district.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019)

7.030 Limitations on Point of Discharge. No person shall insert, place, or discharge any substance directly into a sewer manhole, vertical riser, cleanout, or any other access point in the sanitary sewer unless authorized by the district manager.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019)

7.040 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 National Pollutant Discharge Elimination System (NPDES) Permit.

(Adopted by Ord. 145, November 12, 2014; Amended by Ord. 146, June 14, 2017; Amended by Ord. 149, April 10, 2019)

7.050 Discharge Into Sanitary Sewer System Prohibited. It shall be unlawful for any person to discharge or deposit any substance or connect to the district's sanitary sewer system without a valid sewer connection permit and/or wastewater discharge permit issued by the district pursuant to this code.

(Adopted by Ord. 145, November 12, 2014; Amended by Ord. 146, June 14, 2017; Amended by Ord. 149, April 10, 2019)

7.060 Regulation of Trucked or Hauled Waste. No person shall discharge, cause, allow, or permit any trucked, or hauled waste to be discharged into the district's sanitary sewer system, except at a site specifically designated in a wastewater discharge permit issued pursuant to this chapter.

(Adopted by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019)

7.070 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 the district's 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 the Environmental Services Department of the City of San Jose 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 district and the City of San Jose to minimize damage to the district's sanitary sewer system, San José/Santa Clara Water Pollution Control Plant and its treatment processes, and all waterways. If hazardous waste is discharged, the 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 describing the causes of the accidental discharge and the measures being taken to prevent future occurrences.

(E) Notification to the district and the City of San Jose 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 district's sanitary sewer system, San José/Santa Clara Water Pollution Control Plant or its treatment process, water ways, or for any fines or penalties imposed on the district or the City of San Jose 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, containment 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 meet the requirements of the district 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 district manager.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 135, May 28, 2008; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019)

7.080 Pretreatment by Owner or Operator. Each owner or operator of a private premises shall, at the owner's or operator's own expense, provide such treatment, or take such other measures as the district manager may require to prevent accidental discharge, reduce objectionable effluent characteristics or contents, or reduce the rate of discharge of waters or wastes prior to being deposited into the district's sanitary sewer system, to prevent damage to, or interference with the district's sanitary sewer system.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 135, May 8, 2008; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019; Amended by Ord. 154, November 10, 2021)

7.090 Monitoring Facilities.

(A) The district manager may require any discharger to the district's sanitary sewer system to construct, at the discharger'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 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.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 135, May 28, 2008; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019)

#### 7.100 Storm and Other Waters.

(A) No person shall discharge, cause, allow or permit any storm water, surface water, groundwater, subsurface drainage or roof water to be discharged into the sanitary sewer system or any part thereof.

(B) At the district manager's discretion, a wastewater discharge permit for the discharge of groundwater, subsurface drainage, surface water, roof water, or storm water may be issued in special circumstances if there is no reasonable alternative method for disposal of such water.

(C) If permitted, discharge of groundwater, subsurface drainage, surface water, roof water, or storm water shall be subject to all applicable requirements of this chapter, including but not limited to the payment of applicable permit fees and such terms and conditions as the district may impose in the wastewater discharge permit.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 143, October 10, 2012; Amended by Ord. 145, November 12, 2014; Amended by Ord. 146, June 14, 2017; Amended by Ord. 149, April 10, 2019)

7.110 Obstructing or Injurious Substances. No person shall discharge, cause, allow, or permit to be discharged, thrown, or deposited into the district's sanitary sewer system, or any part thereof, or into any plumbing fixture, or private sewer or drain connected either directly or indirectly to the district's 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 district's sanitary sewer system.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019)

7.120 Flammable or Explosive Substances. No person shall discharge, cause, allow, or permit to be discharged into the sanitary sewer system, any wastewater containing any flammable, liquid, solid, vapor, gas, or other substance, including, but not limited to, any substance having a closed

cap flash point of less than one hundred forty degrees Fahrenheit (140° F) or sixty degrees Celsius (60° C) using test methods specified in 40 CFR 261.21.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 145, November, 12, 2014; Amended by Ord. 149, April 10, 2019)

7.130 Hot Substances. No person shall discharge, cause, allow, or permit to be discharged into the district's sanitary sewer system, or any part thereof, any liquid, solid, vapor, gas, or substance having or developing a temperature of one hundred fifty degrees Fahrenheit (150° F) or more; or which may cause the temperature of the influent at the San Jose/Santa Clara Water Pollution Control Plant to exceed one hundred and four degrees Fahrenheit (104° F).

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 145, November, 12, 2014; Amended by Ord. 149, April 10, 2019)

7.140 Fats, Oils, and Grease.

(A) No person shall discharge, cause, allow or permit to be discharged, into the district's sanitary sewer system, any liquid or other waste containing fats, oils, and grease (FOG) in excess of one hundred parts per million (100 ppm) by weight.

(B) No person shall discharge, cause, allow, or permit any FOG discharge from a food service establishment (FSE) into the district's 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, any waste, or material mixed with yellow grease, into the district's sanitary sewer system from a FSE. No yellow grease from a FSE shall be mixed with grease trap or grease interceptor waste.

(D) Any industrial user that violates this Section 7.140 shall resample and submit reports to the district for all pollutants in violation of any applicable wastewater discharge permit limits or any other pollutants as required by the district manager within thirty (30) days of becoming aware of the violations.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019; Amended by Ord. 153, June 10, 2020; Amended by Ord. 154, November 10, 2021)

7.150 Solid or Viscous Matter. No person shall discharge, deposit, 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, plastic, wood, animal hair, paunch manure, any heavy, solid or viscous substance capable of causing obstruction to the flow in the district's sanitary sewer system, or any part thereof, or which

would interfere with the proper operation of the San Jose/Santa Clara Water Pollution Control Plant, or the treatment of sanitary sewage or industrial wastes.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019)

7.160 Corrosive Matter.

(A) No person shall discharge, cause, allow or permit to be discharged, into the district's sanitary sewer system, or any part thereof, any liquid, solid, vapor, gas or substance having a "pH" lower than six (6.0) or equal to or greater than twelve and one-half (12.5), or having any other corrosive property capable of causing damage or hazard to the district's 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 or that interferes with the proper operation of the San Jose/Santa Clara Water Pollution Control Plant, or the treatment of sanitary sewage or industrial wastes.

(B) any person that violates any of the corrosive matter limits in this Section 7.160 shall resample and submit sample reports to the district for all pollutants in violation of any applicable wastewater discharge permit limits or any other pollutants as required by the district manager within thirty (30) days of becoming aware of the violation.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 143, October 10, 2012; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019; Amended by Ord. 154, November 10, 2021)

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

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019)

7.180 Interfering Substances.

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



<u>Toxic Substances</u>	<u>Standard Discharger</u>		<u>Low Flow Discharger</u>	
	<u>Maximum Allowable</u>		<u>Maximum Allowable</u>	
	<u>Concentrations</u>		<u>Concentrations</u>	
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
Cyanide, Total	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
Phenols, Total	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, or cause, allow, or permit to be discharged into the district's sanitary sewer system or any part thereof, any toxic or poisonous substances, or any other pollutants, including biochemical oxygen demand, in sufficient quantity to injure or cause an interference with the sewage treatment process or pass-through the San Jose/Santa Clara Water Pollution Control 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 district's sanitary sewer system, or which may create a hazard in the use or disposal of sewage sludge.

(C) All samples, including grab and composite, may be used to evaluate 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 wastewater discharge permit limits or other pollutants as required by the district manager within thirty (30) days of becoming aware of the violation.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 135, May 28, 2008; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019; Amended by Ord. 154, November 10, 2021)

7.190 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, to meet local limits, or achieve compliance with a discharge limitation, unless expressly authorized by an applicable pretreatment standard or requirement.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 143, October 10, 2012; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019)

7.200 Copper-Based Chemical Compounds. No person shall discharge, 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 any district's sanitary sewer system or any part thereof.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019)

7.210 Suspended Solids; Dissolved Matter. No person shall discharge, cause, allow, or permit to be discharged into the district's 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 San Jose/Santa Clara Water Pollution Control Plant.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019)

7.220 Noxious or Malodorous Matter. No person shall discharge, cause, allow or permit to be discharged into the district's 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 district's sanitary sewer system would cause a public nuisance.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019)

7.230 Radioactive Matter. No person shall discharge, cause, allow, or permit to be discharged, any radioactive waste into the sewerage 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 person so acting does so in compliance with all applicable rules and regulations of all other regulatory agencies having jurisdiction over such discharges.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019)

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

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019)

7.250 Garbage.

(A) No person shall discharge, deposit, cause, allow, permit to be discharged, deposited, or thrown into the sanitary sewer system, or any part thereof, any garbage, or any fruit, vegetable, animal, or other solid material from any food-processing plant or other industrial facility, or retail grocery store, regardless of whether or not it shall have been first passed through a mechanical grinder.

(B) No person shall install, operate, use, or maintain upon the premises of any processing plant, industrial facility, or retail grocery store, any mechanical grinder, or waste grinder that is connected directly or indirectly to the district's sanitary sewer system, or any part thereof.

(C) No person shall discharge, deposit, cause, allow, or permit to be discharged, deposited, or thrown into the district's 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, or FSE, unless the same shall have first been passed through a mechanical garbage, or waste grinder in conformance with the provisions of the California Plumbing Code and the building code of the local jurisdiction within the district.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019; Amended by Ord. 153, June 10, 2020)

#### 7.260 Screened Industrial Wastes.

(A) No industrial user shall discharge, cause, allow, or permit to be discharged into the district's sanitary sewer system, or any part thereof, any garbage, fruit, vegetable, animal, or other solid industrial wastes resulting from the processing, packaging, or canning of fruits, vegetables, other foods or products, unless such wastes have been first passed through screens having openings not exceeding 1/32 of an inch in any dimension.

(B) The district manager may authorize, in writing, the discharge into the district's 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 to, or better than that provided by the above-specified openings of 1/32 of an inch in dimension.

(C) Each person who discharges, causes, allows, or permits to be discharged into the district's sanitary sewer system, or any part thereof, any such wastes shall install and maintain in good operating order, screens as hereinabove specified, and appurtenances thereto, including but not limited to, all necessary conveyors and elevators, in sufficient quantity, size, and quality to continuously and effectively screen not less than one hundred percent (100%) of the peak hydraulic and solids loading imposed on such screens and appurtenances during any processing period.

(D) No person shall discharge any such screened wastes into the district's sanitary sewer system, or any part of the system, unless, and until he or she has obtained a wastewater discharge permit pursuant to this chapter granting approval to do so. The district manager may require such person to provide a report prepared by a registered professional engineer which shows, to the satisfaction of the district manager, that the provisions of this section have been complied with, before the wastewater discharge permit is granted.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. November 12, 2014; Amended by Ord. 149, April 10, 2019)

#### 7.270 Installation of Grease Control Devices.

(A) All FSE's discharging into a public, private sewer main, or disposal system, shall have a grease control device, and related plumbing, of a size and design and constructed in accordance with applicable laws and regulations of the local jurisdiction in which the FSE is located, per the requirements of this section, and approved by the district manager.

(1) Grease interceptors shall meet the following minimum requirements:

- (a) Designed retention time of no less than thirty (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.

(2) Grease traps shall meet the following minimum requirements:

- (a) No injection ports for chemicals or bacteria.
- (b) Installed per manufacturer's specifications.
- (c) Appropriate flow restrictors, whether integral or external to the device, must be installed.

(3) Mechanical grease removal devices shall be installed in accordance with manufacturer's specifications.

(B) Each grease control device shall be installed and connected so that it is easily accessible at all times for visual inspection, sampling, cleaning and removal of grease, and other matter from all surfaces.

(C) A grease control device shall be situated on the discharger's premises, except when such a location would be impractical, or cause undue hardship to the discharger. The property- owner shall obtain an encroachment permit to allow the grease control device to be installed in the public right-of-way, as long as the grease control device is located where it is not obstructed by landscaping or parked vehicles.

(D) Waste discharged from fixtures and equipment in FSE's which may contain grease or other objectionable materials including, but not limited to, scullery sinks, pot and pan sinks, soup kettles, and floor drains located in areas where such objectionable materials may exist, may be drained into the district's sanitary sewer system through the grease control device if approved by the district manager.

(E) Toilets, urinals, wash basins, and other fixtures that may contain fecal material shall not flow through the grease control device.

(F) FSE shall notify the district at least sixty (60) calendar days in advance prior to any change in ownership, facility expansion/remodeling, or change in operations. FSE shall notify the district in writing of such proposed facility work and/or change in operations and shall submit any information requested by the district for evaluation of the effect of such work and/or change in

operations has on FOG discharge to the district's sanitary sewer system.

(Adopted by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019; Amended by Ord. 153, June 10, 2020)

7.280 Maintenance and Operation of Grease Control Devices.

(A) Grease control devices shall be maintained in efficient operating condition by periodic removal of the full content of the grease control device which includes wastewater, accumulated FOG, floating materials, sludge, and solids. Grease control device components, materials, fittings, equipment, and appurtenances shall be present and properly functioning per the manufacturer specifications; and be accessible for visual inspection without the need to enter the grease control device. Any grease control device that does not have the required components, materials, fittings, equipment, and appurtenances shall be repaired and/or retro-fitted with appropriate components, materials, fittings, equipment, and appurtenances. The use of chemicals, bacteria, enzymes, or other additives that have the effect of emulsifying or dissolving grease is prohibited. The accumulated grease removed during maintenance shall not be introduced into any drainage piping, public, or private sewer.

(B) Grease control devices shall be cleaned on a sufficient frequency to prevent objectionable odors, and ensure that the grease control device manufacturer minimum hydraulic retention time and required available hydraulic volume is maintained to effectively intercept and retain FOG from being discharged into the district's sanitary sewer system.

(1) Grease traps shall be cleaned when the combined FOG and solids accumulation exceed twenty-five percent (25%) of the design hydraulic depth or every thirty (30) days, whichever occurs first.

(2) Grease interceptors shall be cleaned when the combined FOG and solids accumulation exceed twenty-five percent (25%) of the design hydraulic depth or every ninety (90) days, whichever occurs first.

(3) Mechanical grease removal devices shall be maintained in a manner and frequency consistent with manufacturer specifications and guidance.

(4) 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) The district manager may grant an exception to the requirement of subsections B(1) and

B(2) where the district manager finds, based on evidence presented by the discharger, that a less frequent cleaning schedule will be sufficient to ensure that not more than twenty-five percent (25%) of the design hydraulic depth of the grease control device will be filled with grease or settled solids, and that no objectionable odors are created.

(D) All dischargers shall implement best management practices in their operations to minimize the discharge of grease to the district's sanitary sewer system.

(E) Dischargers shall maintain records on site for a period of at least three (3) years as follows:

(1) Discharger with an installed grease control device shall maintain records showing that the grease control device has been properly maintained and cleaned as required by this section; and

(2) FSE's shall maintain records showing the following as related to all grease control device cleaning and grease hauled off site: date and time material removed off site; volume removed; hauler name; truck inedible kitchen grease license number, type of grease removed, condition of internal components, depth and calculated percentage of grease or settled solids, and final destination of material collected.

(F) Establishments with existing grease interceptors that are not required by the district shall not be allowed to remain in service, and shall either be:

(1) Abandoned in-place in accordance with the applicable laws and regulations of the local jurisdiction in which the establishment is located, or

(2) Isolated to eliminate any flow from entering the grease interceptor.

(a) Isolated grease interceptors shall be thoroughly cleaned, pumped out, and left dry and empty.

(b) Abandonment of grease waste lines, installation of new private sewers or conversion of grease waste lines into private sewers shall only be performed in accordance with the applicable laws and regulations of the local jurisdiction in which the establishment is located.

(c) During the period of non-use, the property owner is responsible for ensuring the isolated grease interceptor remains dry and empty.

(Adopted by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019; Amended by Ord. 153, June 10, 2020)

7.290 Prohibition. No person shall discharge, cause, allow, or permit fixer solution to be discharged into the district's sanitary sewer system without prior pretreatment to meet all applicable limits.

(Adopted by Ord. 138, October 28, 2009; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019)

7.300 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 district's 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 January 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 ninety (90) days of installation.

(C) A dental vacuum system may be operated without an amalgam separator provided that the system is not used 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) Oral Pathology;
- (2) Oral and maxillofacial radiology;
- (3) Oral and maxillofacial surgery;
- (4) Orthodontics;
- (5) Periodontics;
- (6) Prosthodontics.

(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.

(Adopted by Ord. 138, October 28, 2009; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019; Amended by Ord. 154, November 10, 2021)

7.310 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, sewer service may be suspended to any person or persons using the sanitary sewer system in a manner, or way as to endanger public health, safety, or public or private property, and in this regard sever from the public sewer all pertinent connections thereto. If such endangerment shall be imminent, then the district manager may act immediately to suspend sewer service without giving advance notice or warning whatsoever to said person or persons.



(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019)

7.320 Federal Pretreatment Regulations. No industrial user shall discharge, cause, allow, or permit a discharge into the district's 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.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 135, May 28, 2008; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019)

7.330 Falsification of Information.

(A) It shall be unlawful to make any false statement, representation, record, report, plan, or other document, or to tamper with, render inaccurate, or divert flow from any monitoring device, equipment installed or operated pursuant to this chapter, or of any permit issued under this chapter.

(B) In addition to any other punishment or remedy provided by law, any such falsification or tampering shall be grounds for revocation of any permit issued under this chapter.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 145, November 12, 2014; Amended by Ord. 145, June 14, 2017; Amended by Ord. 149, April 10, 2019)

7.340 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 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 district manager.

(Adopted by Ord. 135, May 28, 2008; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019)

7.350 Power to Inspect.

(A) Pursuant to the inspection procedures set forth in Chapter 13, Section 13.010, the district manager and other duly authorized employees and agents of the district bearing credentials and identification, shall have the right to access upon all properties and reasonable access to the parts

of a facility generating and disposing wastewater into the district's sanitary sewer system for the purpose of 1) investigating compliance with all of the requirements of this code, state, federal regulations and any permit; 2) inspecting any sewer or storm drain connection, suspected source of discharging to the sewer or storm drain, including all discharge connections of roof, surface drains, and plumbing fixtures; 3) inspecting the installation and maintenance of a FSE grease control device; 4) inspecting, observing, measuring, photographing, sampling, and testing the quality, consistency, and characteristics of sewage and industrial wastewaters being discharged into any public sewer or natural outlet; and 5) 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) It shall be unlawful to unreasonably obstruct, delay or interfere with the district access to the owner's and/or operator's premises.

(C) The district manager may terminate service or revoke the permit of any person who has discharged wastewater to the district's sanitary sewer system and has unreasonably refused access to the district or its agents.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 145, November 12, 2014; Amended by Ord. 146, June 14, 2017; Amended by Ord. 149, April 10, 2019; Amended by Ord. 153, June 10, 2020; Amended by Ord. 154, November 10, 2021)

7.360 Public Nuisance. The discharge of unscreened garbage, fruit, vegetable, animal, or other solid or liquid industrial wastes into any part of the district's sanitary sewer system in violation of any provision of this chapter, is hereby declared to be a public nuisance.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019)

7.370 Discharge Reports.

(A) Discharges are subject to the reporting requirements as contained in Title 40 of the Code of Federal Regulations. The district manager may require that any person connected to, or discharging wastewater into the district's sanitary sewer system file additional periodic discharge reports or a zero discharge report, including but not limited to, the requirements contained in 40 CFR 403.12, or other applicable federal regulation.

(B) The periodic discharge report may be required to include, but not limited to, nature of process, volume, rates of flow, mass emission rate, hours of operation, number of employees, hauling records, potential for slug discharge, 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 the sanitary sewer, or that a zero discharge categorical user does not discharge any categorical process water or ancillary process water to the designated zero discharge categorical sample point into the district's sanitary sewer system. This report may be required to include, but not limited to, nature of process, hours of operation, number of employees, hauling records, or other information that relates to generation of wastes.

(D) The district manager 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 to evaluate the discharger's ability to comply with this chapter, including but not limited to best management practices or self-monitoring reports.

(F) It shall be unlawful for any person who has discharged wastewater to the district's sanitary sewer system to refuse to file any report requested by the district manager, to file an incomplete or inaccurate report, or to file any report or application after the due date as specified by the district manager.

(G) Sampling and analysis shall be performed in accordance with federal regulations, including 40 CFR 403.12 and amendments thereto. Where federal regulation does not contain sampling or analytical methods for the pollutant in question, or where the district manager determines that federal regulations are inappropriate for the pollutant in question, sampling and analysis shall be performed by using analytical methods validated by the district manager.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 135, May 28, 2008; Amended by Ord. 143, October 10, 2012; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019; Amended by Ord. 154, November 10, 2021)

7.380 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 logs, or other relevant evidence that:

(1) The industrial user can identify the cause(s) of the upset;

(2) 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;

(3) The industrial user has submitted the following information to the San Jose/Santa Clara Water Pollution Control Plant:

(a) A description of the discharge to the San Jose/Santa Clara Water Pollution Control Plant and the cause of noncompliance;

(b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(c) Steps being taken and/or planned to be taken to reduce, eliminate and prevent recurrence of the noncompliance.

(4) The industrial user shall report the information specified in Subsection (A)(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.

(B) The industrial user seeking to establish the occurrence of an upset as an affirmative defense shall have the burden of proof.

(C) 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 power to the treatment facility is reduced, lost, or fails.

(Adopted by Ord. 145, November 12, 2014; Amended by Ord. 146, June 14, 2017; Amended by Ord. 149, April 10, 2019)

7.390 Enforcement. The primary responsibility for enforcement of the provisions of this code shall be vested in the district manager, or agents of the district as they shall designate, provided that field inspectors, other employees of the district, or the City of San Jose Environmental Services Department Watershed Protection Division staff as representatives of the San Jose/Santa Clara Water Pollution Control Plant are hereby authorized to act as agents of the district for, and on behalf of, the district manager. The district, at its discretion, may utilize any one, combination, or all enforcement remedies provided in this code in response to any permit or code violations. Nothing in this Code limits the authority of the district manager to request that a civil or criminal action be brought by the district's counsel, a city attorney, a district attorney, or the attorney general pursuant to this code or under any law or regulation.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 145, November 12, 2014; Amended by Ord. 146, June 14, 2017; Amended by Ord. 149, April 10, 2019)

#### 7.400 Termination of Service and Permit Revocation.

(A) The district manager may revoke any wastewater discharge permit, and/or terminate, or cause to be terminated wastewater service to any premises:

(1) If a discharge of wastewater from the premises cause or threatens to cause a violation of any provision of this chapter or applicable local, state, federal regulations or permit conditions; or

(2) If a discharge of wastewater from the premises causes or threatens to cause a condition of contamination, pollution, or public nuisance.

(B) Written notice of the permit revocation or service termination, and a statement of the grounds thereof, 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 determines that immediate permit revocation or suspension of service is necessary for the preservation of public health, safety, or for the protection of public or private property. If the district manager determines that immediate permit revocation or suspension of service is necessary, the district manager 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 district's sanitary sewer system from any premises for which the permit has been revoked or wastewater service has been suspended or terminated.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 145, November 12, 2014; Amended by Ord. 146, June 14, 2017; Amended by Ord. 149, April 10, 2019; Amended by Ord. 154, November 10, 2021)

#### 7.410 Summary Suspension.

(A) If the district manager determines there is an imminent threat to health, safety, or welfare of the public as set out in Subsection B below, a wastewater discharge permit may be summarily suspended for a period of time not to exceed thirty (30) days.

(B) The district manager's determination that there is an imminent threat to the public health, safety, or welfare shall be based on one or more of the following:

(1) There is an urgent need to take immediate action to protect the public from a substantial threat of serious bodily injury or death existing on or within one hundred fifty (150) feet of the permitted premises; or

(2) There has been a violation of a permit condition or other requirement of this code creates an imminent danger to the public health, safety or welfare on or within one hundred fifty (150) feet of the permitted premises; or

(3) The permittee has conducted the permitted business in a manner that creates or results in a public nuisance, as defined in Section 7.360 or 13.040 of this code, or Sections 3479 and 3480 of the California Civil Code, and that public nuisance creates an imminent danger to health, safety, or welfare within one hundred fifty (150) feet of the permitted premises.

(C) The summary suspension shall take effect immediately upon service of a written notice of suspension by the district manager. Notice given to the permittee shall include the following information:

- (1) The effective date and time period of the summary suspension;
- (2) The grounds and reasons upon which the summary suspension is based;
- (3) The permittee who wishes to challenge the summary suspension may request a hearing before the board of directors;
- (4) The method for requesting a hearing before the board of directors; and
- (5) The notice of summary suspension shall become final unless the district received a written request for a hearing from the permittee within the time period specified in Subsection E.

(D) The summary suspension shall remain in effect unless and until the board of directors either:

- (1) Amends the notice of summary suspension to shorten the time period provided in the earlier notice of summary suspension; or
- (2) Issues a decision after holding a hearing pursuant to the requirement of this section that modifies or overrules the summary suspension.

(E) If the permittee wishes to challenge the summary suspension, the permittee must file a written request for a hearing before the board of directors within three (3) business days after service of the notice of summary suspension. If the district does not receive a request for a hearing from the permittee with this time period, the notice of summary suspension shall become final.

(F) The district must respond to the permittee's request for a hearing by holding a hearing to affirm, modify or overrule the summary suspension within sixty (60) days of the permittee's request for a hearing, unless the permittee request an extension of the time within which the district can hold the hearing.

(G) The district shall serve a written notice of hearing on the permittee not later than two (2) business days after receiving the permittee's written request for a hearing. The notice of hearing shall contain the date, time, and place at which the hearing shall be conducted.

(H) At the hearing before the board of directors, the permittee shall be given the opportunity to present evidence that either rebuts the ground(s) for which the summary suspension was issued or demonstrates that the reason or reasons leading to the summary suspension have been mitigated or corrected.

(I) The hearing will be conducted informally and technical rules of evidence shall not apply. Any and all evidence that the board of directors deems reliable, relevant and not unduly repetitious may be considered.

(J) Following the conclusion of the hearing, the board of directors shall issue a decision which affirms, modifies or overrules the summary suspension, as specified in Subsection K. If the board of directors affirms or modifies the summary suspension, it may impose additional conditions upon the permit if those conditions were reviewed at the hearing and the conditions are intended to protect the health, safety, and welfare of the public or prevent the conduct or condition that led to the summary suspension.

(K) The board of directors shall issue a decision upon the close of the hearing. The secretary to the board of directors shall serve the permittee with a copy of the board's decision within three (3) business days of the close of the hearing. The decision of the board of directors shall be final for the purposes of this chapter and section 11.100.

(Adopted by Ord. 154, November 10, 2021)

#### 7.420 Correction of Violations; Collection of Costs; Injunction.

(A) The district may abate any violation of this chapter.

(B) The cost of such abatement may be added to the sewer service charge of the property-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.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019; Amended by Ord. 154, November 10, 2021)

7.430 Cumulative Remedies. The district may take enforcement action for any violation of this code. Nothing in this code requires escalation of enforcement and, instead, the district may take any action it deems necessary under the circumstances. The remedies identified in this code are

cumulative, not exclusive, and are in addition to those the district may have at law, including administrative, civil, and criminal remedies.

(Adopted by Ord. 154, November 10, 2021)

7.440 Violations and Civil Penalties. No person shall discharge in violation of, or fail to comply with, the requirements of a wastewater discharge permit, or any other provision of this chapter, or other regulations. Each violation of a wastewater discharge permit condition or other rule, regulations, or law shall be a separate violation under this code.

(A) Civil Penalties Issued by the District:

(1) Pursuant to the authority of California Government Code Sections 54739 to 54740.6, the district or district staff may issue administrative complaints, conduct administrative hearings, and/or civil penalties in accordance with the procedures set forth in these sections for violation of this chapter's requirements relating to the pretreatment of industrial waste or the prevention of the entry of industrial waste into the district's sanitary sewer system. The penalties shall be as follows:

(a) 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.

(b) 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 local agency.

(c) 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.

(d) 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.

(2) In determining the amount of the civil penalty, the district 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.

(3) An aggrieved party may appeal the issuance of a civil penalty to a hearing officer. The procedures set forth in Chapter 14, Sections 14.070 through 14.100 shall govern the appeal process before a hearing officer, except that for the purposes of Chapter 13, the aggrieved party also has a



right to appeal the hearing officer's order to the district board of directors. The aggrieved

party shall file his or her appeal with the board of directors within thirty (30) calendar days upon issuance of the hearing officer's order.

(4) Unless appealed to the district board of directors, orders of a hearing officer setting administrative civil penalties under this subsection shall become effective and final upon service of a copy of the hearing officer's order thereof, and payment shall be made within thirty (30) calendar days.

(5) Any party aggrieved by a final order issued by the district board of directors, after either granting or denying review of the order of a hearing officer, may obtain review of the board of directors' order by filing in superior court a petition for writ of mandate within thirty (30) calendar days following the service of a copy of a decision and order issued by the board of directors.

(6) The amount of any civil penalties imposed under this subsection that have remained delinquent for a period of sixty (60) calendar days shall constitute a lien against the real property from which the discharge originated resulting in the imposition of the civil penalty.

(7) All penalties collected under this subsection shall be deposited in a special account 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.

(8) No penalties shall be recoverable under this subsection for any violation for which civil liability is recovered under subsection 7.420(B).

(B) Civil Penalties Issued by a Court:

(1) 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, may be civilly liable to the district in a sum of not more than twenty-five thousand dollars (\$25,000), but not less than one thousand dollars (\$1,000), a day for each violation, plus actual damages incurred by the district's sanitary sewer system. In addition to the above-described penalty and damages, the district may recover reasonable attorneys' fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses.

(2) The district may petition the superior court to impose, assess, and recover this civil penalty. In determining the amount, the court takes 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.

(3) No penalties shall be recoverable under this subsection for any violation for which administrative civil penalties are recovered under subsection 7.420(A).

(C) Remedies under this Section 7.420 are in addition to and do not supersede or limit any and all other remedies available to the district, except as otherwise provided in this code.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 145, November 12, 2014; Amended by Ord. 146, June 14, 2017; Amended by Ord. 149, April 10, 2019; Amended by Ord. 154, November 10, 2021)

7.450 Mandatory Wastewater Discharge Permits. No critical user, zero discharge categorical user, or significant industrial user shall connect, discharge, cause, allow, or permit any discharge, into the district's sanitary sewer system except in accordance with a wastewater discharge permit issued by the district manager.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 135, May 28, 2008; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019; Amended by Ord. 154, November 10, 2021)

7.460 Permit Duration and Amendment.

(A) Wastewater discharge permit shall be issued for a specific duration, not to exceed five (5) years.

(B) Permits shall be subject to amendment by the district as limitations or requirements for 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.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 135, May 28, 2008; Amended by Ord. 145, November 12, 2014; Amended by Ord. 146, June 14, 2017; Amended by Ord. 149, April 10, 2019; Amended by Ord. 154, November 10, 2021)

7.470 Permit Application.

(A) All persons requiring a wastewater discharge permit shall file a complete application, in the form prescribed by the district manager and accompanied by payment of all fees established by this code and further accompanied by payment of all fees established by the City of San Jose, for its industrial waste discharge permit program.

(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 district's sanitary sewer system for which a discharge permit has been issued must apply for a new permit prior to making a significant change in the operations affecting their discharge.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 124, September 25, 1996; Amended by Ord. 135, May 28, 2008; Amended by Ord. 145, November 12, 2014; Amended by Ord. 146, June 14, 2017; Amended by Ord. 149, April 10, 2019; Amended by Ord. 154, November 10, 2021)

#### 7.480 Delinquent Fees

(A) Wastewater discharge permits are due ninety (90) days prior to: (a) Commencing discharge to the district's sanitary sewer system; (b) Commencing operation of a zero discharging categorical process; or (c) Expiration of existing wastewater discharge permit. Any person who fails to file a wastewater 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 one thousand percent (1000%) 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 may have with respect to the discharge.

(C) The district manager may waive the assessment of penalty if the industrial user meets all of the following requirements:

(1) The industrial user has submitted a completed wastewater discharge permit 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 user has applied to the San Jose/Santa Clara Water Pollution Control Plant for a waiver no later than thirty (30) days from the date the application was due;

(3) The industrial user submitted timely applications for:

(a) The five (5) years immediately prior to the present late wastewater discharge permit application, or

(b) The two (2) years immediately prior to the present late wastewater discharge permit

application if the industrial user has discharged for less than five (5) years; and

(4) The industrial user can provide documentation that

(a) 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

(b) Failure to submit a timely application was due to circumstances beyond the control of the industrial user, and occurred despite the exercise of ordinary care and the absence of willful neglect.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 135, May 28, 2008; Amended by Ord. 145, November 12, 2014; Amended by Ord. 146, June 14, 2017; Amended by Ord. 149, April 10, 2019; Amended by Ord. 154, November 10, 2021)

#### 7.490 Signature Requirements.

(A) Permit applications, discharge reports and any other reports required by the district manager to be signed, shall be signed by an authorized or duly authorized representative of the business filing the application.

(B) Reports subject to requirements in Title 40 of the Code of Federal Regulations shall include the following relevant certification statement as set forth in Title 40 of the Code of Federal Regulations, CFR Section 403.12, subsections (l) or (q).

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 143, October 10, 2012; Amended by Ord. 145, November 12, 2014; Amended by Ord. 146, June 14, 2017; Amended by Ord. 149, April 10, 2019; Amended by Ord. 154, November 10, 2021)

#### 7.500 Additional Information.

(A) If the district manager is not satisfied that the wastewater discharge 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.

(B) The applicant shall have fourteen (14) calendar days, or such longer period of time as

allowed by the district manager, after reviewing a request for information, to complete the application.

(C) If the returned application is not resubmitted within the specified time period, then a new application for a wastewater discharge permit must be submitted along with the application fees and any delinquent fees for a new permit.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 135, May 28, 2008; Amended by Ord. 145, November 12, 2014; Amended by Ord. 146, June 14, 2017; Amended by Ord. 149, April 10, 2019; Amended by Ord. 154, November 10, 2021)

#### 7.510 Transfer of Permit.

(A) Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater 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.

(B) Wastewater discharge permit may be transferred to a new owner and/or operator only if the permittee provides advance written notice to the district manager and the district manager approves the transfer of a wastewater discharge permit.

(1) The notice to the district manager must include a certification by the new owner and/or operator which:

(a) States the new owner and/or operator has not immediate intent to change the facility's operations and processes;

(b) Identifies the specific date on which the transfer is to occur; and

(c) Acknowledges full responsibility for complying with the existing individual wastewater discharge permit.

(2) Failure to provide advanced notice of a transfer renders the wastewater discharge permit void as the date of facility transfer.

(C) Upon an approved transfer, the existing owner or operator shall provide a copy of the wastewater discharge permit to the new owner or operator.

(D) 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 or operator, successor in interest, or other assigns of an existing contract of permit holder.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 135, May 28, 2008; Amended by Ord. 145, November 12, 2014; Amended by Ord. 146, June 14, 2017; Amended by Ord. 149, April 10, 2019; Amended by Ord. 154, November 10, 2021)

7.520 Denial of Permit. The district manager may deny a discharge permit if any one 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 wastewater discharge 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 wastewater discharge permit would cause the San Jose/Santa Clara Water Pollution Control 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 wastewater discharge permit.

(F) The applicant has not provided plans for sufficient protection from accidental discharges to the sanitary sewer system.

(G) If the district manager refuses to issue a wastewater discharge 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 wastewater discharge permit application is made.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 135, May 28, 2008; Amended by Ord. 145, November 12, 2014; Amended by Ord. 146, June 14, 2017; Amended by Ord. 149, April 10, 2019; Amended by Ord. 154, November 10, 2021)

7.530 Permit Conditions.

(A) Wastewater discharge permit 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 all applicable local, state and federal law and regulations.

(B) The permit may include such terms and conditions as the district manager may deem necessary to implement this chapter, or any other applicable local, state, or federal law and regulations, including but not limited to:

(1) Limits on the average and maximum wastewater volume, 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, including those necessary to meet categorical or other pretreatment standards;

(5) Requirements for submission of technical reports or discharge reports.

(6) Requirements for maintaining and retaining facility records relating to wastewater discharge as specified by the district and affording the district or its agent access thereto;

(7) Requirements for notification to the district or its agents 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 containment 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; and

(10) Requirements for the submission of a slug control plan or specific element thereof.

(C) No person shall fail to comply with the terms and conditions of a wastewater discharge permit, or fail to comply with any other mandatory provision of this code, or other regulations, or discharge limitations established by the district, or local, state and federal laws and regulations. Each violation of the wastewater discharge permit condition or other rule, regulation, or law shall be a separate violation under this code.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 135, May 28, 2008; Amended by Ord. 145, November 12, 2014; Amended by Ord. 146, June 14, 2017; Amended by Ord. 149, April 10, 2019; Amended by Ord. 154, November 10, 2021)

#### 7.540 Best Management Practices.

(A) The district manager may develop best management practices (BMPs), by ordinance or in individual wastewater discharge permits, to implement local limits, federal regulations, and the requirements under this chapter.

(B) All industrial users shall follow BMPs established by ordinance, individual wastewater discharge permit, or implement BMPs in their operations to minimize the discharge of pollutants to

the sanitary sewer system and ensure appropriate monitoring, treatment, and other measures are being taken to prevent violations.

(C) When an industrial user develops BMPs in response to an enforcement action, the user shall continue to implement those BMPs and any associated record keeping unless approved to discontinue.

(D) Industrial users subject to BMPs as a means of complying with the standards of this chapter shall maintain documentation to demonstrate compliance with the applicable BMP standards.

(E) Periodic reports on continued compliance for BMP regulated dischargers shall require the discharger to certify that the BMPs have been implemented during the reporting period.

(Adopted by Ord. 154, November 10, 2021)

#### 7.550 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 wastewater discharge permit application:

- (1) Date 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 7.470;
- (3) Certification statement as specified under 40 CFR 403.6(a)(2)(ii); and
- (4) Other technical factors 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 wastewater discharge permit, and a new request for waiver must be submitted for each new wastewater discharge permit.

(Adopted by Ord. 145, November 12, 2014; Amended by Ord. 146, June 14, 2017; Amended by Ord. 149, April 10, 2019; Amended by Ord. 154, November 10, 2021)

#### 7.560 Wastewater Discharge Permit Appeals.

(A) Any permittee or permit applicant may appeal a notice of revocation of a wastewater discharge permit, notice of denial of a wastewater discharge permit, any term or condition of a



wastewater discharge permit, amendment of a wastewater discharge permit, or notice of termination of service to the district manager.

(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. A request for hearing on a decision to revoke a wastewater discharge permit or terminate service shall, except in the case of immediate wastewater discharge permit revocation or suspension of service for the preservation of public health, 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 wastewater discharge permit, on the terms or conditions in a wastewater discharge permit, on an amendment to a wastewater discharge 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.

(D) Failure of a permittee or applicant to timely request a hearing shall be deemed acceptance of the district manager's decision, and the district manager's decision shall be deemed final and effective.

(E) At the hearing before the district manager, 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 manager deems reliable, relevant and not unduly repetitious may be considered.

(G) The applicant may be represented at the hearing by another person.

(H) The district manager shall provide written notice of decision on the appeal to the permittee or applicant. The decision of the district manager on the appeal shall be deemed final and effective three (3) days after the 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.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 135, May 28, 2008; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019; Amended by Ord. 154, November 10, 2021)

7.570 Additional Relief. The remedies provided by this chapter are cumulative, and shall not be construed as restricting any remedy provided by law for the benefit of the district.

(Adopted by Ord. 123, April 26, 1995; Amended by Ord. 135, May 28, 2008; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019; Amended by Ord. 154, November 10, 2021)

7.580 Applicability of Regulations Issued by the Director of Environmental Services of the City of San Jose. In addition to the provisions contained in the district's code, industrial user discharging industrial waste into the district's sewer system, shall be subject to all wastewater discharge permit regulations promulgated by the Director of Environmental Services of the City of San Jose authorized by this chapter and Chapter 15.14.790 of the San Jose Municipal Code which are not inconsistent with the district's code.

(Adopted by Ord. 124, September 15, 1996; Amended by Ord. 135, May 28, 2008; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019; Amended by Ord. 154, November 10, 2021)

7.590 Publication of Users in Significant Noncompliance. The district manager is authorized to publish annually, a list of significant industrial users, at any time during the previous twelve (12) months, which were in significant noncompliance with applicable pretreatment standards and requirements. The term significant compliance is defined in 40 CFR 403.8.

(Adopted by Ord. 135, May 28, 2008; Amended by Ord. 145, November 12, 2014; Amended by Ord. 149, April 10, 2019; Amended by Ord. 154, November 10, 2021)