

ORDINANCE NO. 149

AN ORDINANCE OF THE WEST VALLEY SANITATION
DISTRICT BOARD OF DIRECTORS AMENDING CHAPTERS 1, 2, 3,
4, 6, 7, 9, 10, 11, 12, 13, AND 14 OF THE DISTRICT'S ORDINANCE

IT IS HEREBY ORDAINED by the District Board of Directors of the West Valley Sanitation District of Santa Clara County as follows:

1. Amendment: Chapter 1 of the District's Ordinance Code is hereby amended to read as follows:

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".

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.

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.

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.

(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.

“**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 to prevent or reduce the introduction of pollutants to the sanitary sewer system which

have been approved for use by the district manager for particular industry groups, business types, or specific industrial processes.

“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”:

“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:

Any placement, assembly or installation of facilities or equipment; or

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.

“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 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, 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 annual average process flow by twenty-five percent (25%) of the industrial user’s average process flow based upon immediate preceding twelve (12) months.

(B) An increase or decrease in annual average process flow that results in a change from low flow discharger to standard discharger or from standard discharger to low flow discharger.

(C) An increase or decrease in annual average process flow that results in a change from non-significant categorical industrial user to significant industrial user or from significant industrial user to non-significant categorical industrial user.

(D) An increase or decrease in annual 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 process discharge 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 (1) 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 the flow across any surface or in storm sewers resulting from rainfall.

“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.

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.

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.

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.

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.

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.

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.

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.

2. Amendment: Chapter 2 of the District's Ordinance Code is hereby amended to read as follows:

2.010 Selection of Chairperson and Vice-chairperson. The board shall, at the first regular meeting of each calendar year, select one (1) of its members as chairperson and another as vice-chairperson to serve for the calendar year. The chairperson and vice-chairperson serve at the pleasure of the board. The vice-chairperson will serve as chairperson in the absence of the chairperson. In the absence of the chairperson and the vice-chairperson, the remaining members present shall select one (1) of its members to act as chairperson of the meeting. It is intended that all members of the board will rotate as chairperson and vice-chairperson.

2.020 Appointment of Committees. When the board considers it necessary for the efficient operation of the district, it may approve the creation of a committee for the purpose of reviewing, investigating and recommending with reference to a particular matter. The board shall appoint the members of the committee.

2.030 Compensation of Board Members. The compensation of board member shall be one hundred fifty dollars (\$150) for each meeting attended as a board member either at any regular, special or committee meeting of the board or at the request of the board. Board members shall

be compensated for no more than one (1) meeting per day. Compensation shall not exceed six (6) meetings on separate days in any calendar month. Each board member shall be entitled to receive reimbursement of expenses incurred incident to the attendance of any such meeting.

Reference: Sections 4733 and 4734, Health and Safety Code.

2.040 Time and Place of Regular Meetings. The regular meetings of the board shall be held on the second Wednesday of each calendar month at 5:00 p.m., at the office of the district, 100 East Sunnyoaks Avenue, Campbell, California, or at such other day, time or place as may be, from time to time, designated by the board.

Reference: Section 54954, Government Code.

2.060 Adjournment of Meetings. The board may adjourn any regular, adjourned regular, special or adjourned special meeting, subject to the following conditions:

(A) Adjournment by Board. The board may adjourn a regular, adjourned regular, special or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time.

(B) Adjournment by Secretary. If all members are absent from any regular or adjourned regular meeting, the secretary of the board may declare the meeting adjourned to a stated time and place and he/she shall cause a written notice of the adjournment to be given in the same manner as provided in Section 54956 of the Government Code for special meetings, unless such notice is waived as provided for special meetings.

(C) Notice of Adjournment. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held within twenty-four (24) hours after the time of adjournment.

(D) Status of Adjourned Regular Meeting. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes.

(E) Hour at which adjourned meeting is to be held. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings.

Reference: Section 54955, Government Code.

2.070 Special Meetings: Calling; Notice. A special meeting may be called at any time by the chairperson of the board or by a majority of the board subject to the following conditions:

(A) Notice. Written notice of a special meeting shall be delivered personally, by mail, or electronic mail to each member of the board and to each local newspaper of general circulation, radio or television station requesting notice in writing.

(B) Time of Delivery. Such notice must be delivered personally or by other means at least twenty-four (24) hours before the time of such meeting as specified in the notice.

(C) Content. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings by the board.

(D) Notice Dispensed. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the secretary of the board a written waiver of notice. Such waiver may be given by telegram. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes.

(E) Posting. The call and notice shall be posted at least twenty-four (24) hours prior to the special meeting in a location that is freely accessible to members of the public.

Reference: Section 54956, Government Code.

2.080 Closed Sessions. The board may hold a closed session during a regular or special meeting under the authority of Division 2 Part 1 Chapter 9 of the California Government Code commencing at §54950.

Section 2.090 Repeal by Ord. 149, April 10, 2019.

3. Amendment: Chapter 3 of the District's Ordinance Code is hereby amended to read as follows:

3.010 Chief Administrative Officer. There is created the office of "District Manager and Engineer." The "District Manager and Engineer" or "District Manager" is the chief administrative officer of the district.

3.020 Appointment and Qualifications of District Manager and Engineer. The board shall appoint the district manager and engineer who shall be a civil engineer and shall have a certificate of registration in the State of California.

3.030 Authority, Responsibility and Duties of District Manager and Engineer. The district manager and engineer shall be the administrative head of the district, acting under the direction and control of the board of directors, except as otherwise provided in this chapter. In addition to his/her general powers as chief administrator, and not as a limitation thereon, he/she shall have the powers and duties set forth as follows:

(A) To see that all rules, regulations, resolutions, and ordinances of the district are duly observed and enforced;

(B) To set policies consistent with rules, regulations, resolutions, and ordinances of the District.

(C) To establish departments and organize the functions of the district, and to control, order, and give directions to all heads of departments and to subordinate officers and employees of the district under his jurisdiction through their department heads, and to transfer employees from one department to another;

(D) To appoint, discipline and dismiss any and all officers and employees of the district as provided in the district's merit system rules;

(E) To attend all meetings of the board of directors, unless excused therefrom by the board of directors;

(F) To recommend to the board of directors for adoption of such measures, rules, regulations, and ordinances as he deems necessary and expedient, including specifications and requirements controlling the construction, repair, maintenance, and operation of the district's sanitary sewer system;

(G) To keep the board of directors at all-time fully advised as to the financial conditions and needs of the district;

(H) To prepare and submit to the board the annual budget and to administer it after its adoption, and to maintain accounting and reports on the fiscal operation of the district;

(I) To purchase or cause to be purchased all supplies for all of the departments or divisions of the district. No expenditures shall be submitted or recommended to the board of directors except on report and approval of the district manager and engineer;

(J) To make investigation into the affairs of the district and any department or division thereof and any contract or the proper performance of any obligation owing to the district;

(K) To investigate all complaints in relation to matters concerning the administration of the district;

(L) To execute general supervision over all facilities which are under the control and jurisdiction of the district;

(M) To make reports and initiate recommendations as may be desirable or as requested by the board of directors;

(N) To furnish to the district a corporate surety bond conditioned upon the faithful performance of the district manager and engineer's duties in the amount of fifty thousand dollars (\$50,000). The premium for the bond shall be paid by the district;

(O) To approve plans, specifications, and descriptions of work upon sewers in the district;

(P) To collect fees and charges, issue permits, establish funds consistent with ordinance, remit payments, and maintain records of all transactions;

(Q) To devote his/her entire working time, thought, and energy to the duties and interest of the district.

(T) To perform such other duties and to exercise such other powers as may be delegated to him from time to time by ordinance, resolution, or other action by the board of directors.

3.040 Political Activities of the District Manager and Engineer. The district manager and engineer is free to engage in political activity to the widest extent consistent with the restrictions imposed by law and this part.

(A) Prohibited Activities: No person acting or serving as district manager and engineer is to become a candidate for elective office or take an active part in any political campaign or organization, or circulate or seek signatures to any petition provided for in any primary or election, or distribute badges, colors, or indicia favoring or opposing a candidate for election or nomination to the county or municipal public office within the County of Santa Clara. The activities proscribed herein shall extend only to those activities with respect to those political activities in the County of Santa Clara or any municipality within the county.

(B) Board Action: In the event that the district manager and engineer participates in the above-described prohibited activities, the board of directors shall determine whether or not

participation in such activities jeopardizes the ability of the district manager and engineer to fulfill his/her duties and obligations to the district, and the board shall then take any action as it deems necessary.

(C) Severability: If any section, subsection, subdivision, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional otherwise void or invalid by any court of competent jurisdiction, the validity of the remaining portions of this chapter shall not be affected thereby.

3.050 Employment of Assistants. Upon approval of the board, the district manager and engineer may employ assistants. Each employment shall be made in accordance with the procedures specified in the merit system rules.

3.060 Employment Policy. It is the policy of the district to select employees on the basis of merit and to determine merit through practice and competitive examination. In return for faithful service, district employees are entitled to reasonable security of tenure. Tenure shall be dependent upon good behavior, efficiency, necessity of the work, and the appropriation of sufficient funds. The acts and decisions of the district shall be in accordance with merit system practices and policies.

3.070 Establishment of a System of Rules and Personnel Practices. The board shall by resolution establish a system of rules and personnel practices for employees of the district.

3.080 Appointing Authority. The district manager and engineer may make each appointment in accordance to the approved budget, and the established system of rules and personnel practices.

3.090 Exemptions from Personnel System. The following positions are exempted from the personnel system:

(A) Elective offices;

(B) Persons providing professional, technical and expert services to the district under contract.

3.100 Right of Entry. Each district employee shall wear or carry official evidence establishing his/her position, and upon exhibiting it, may enter a premises in the performance of his/her official duties and in the enforcement of this code.

4. Amendment: Chapter 4 of the District's Ordinance Code is hereby amended to read as follows:

4.010 Establishment of Funds or Accounts.

(A) Each of the following funds or accounts is established:

- (1) Bond Funds.
- (2) General Operating Fund.
- (3) Hillside Zone Reserve Account
- (4) Trust Funds.

(B) The board may establish such other funds by resolution as it considers necessary or convenient.

NOTE: West Valley Sanitation District funds are provided for in Health and Safety Code Sections 4792, 4813, and 4816, and in Streets and Highways Code Section 10424.

4.020 Bond Funds.

(A) Money to be deposited in several bond funds of the district consist of the following:
Revenue collected for payment of principal and interest of bonds issued by the district;
Other money which the board directs to be deposited.

(B) These funds may be used only for payment of principal and interest of the bonds issued by the district.

NOTE: This fund is regulated by Sections 4810 and 4814 of the Health and Safety

4.030 Repeal by Ord. 149, April 10, 2019.

4.040 General Operating Fund.

(A) Money to be deposited in the general operating fund of the district shall consist of the following:

- (1) Taxes, fees, or charges levied for maintenance and operation of the district;
- (2) Revenue from sewer service and use charges; and

(3) Other money which the board directs to be deposited.

(B) This fund may be used only to maintain, operate, extend, or repair any work or improvements of the district for the collection, treatment and disposal of sewage and to defray all other expenses incidental to the exercise of any of the district powers relating thereto.

NOTE: This fund is regulated by Sections 4815 and 4816 of the Health and Safety

4.050 Hillside Zone Reserve Account.

(A) Money to be deposited in the hillside zone reserve account of the district shall consist of the following:

Revenue derived from the hillside zone additional sewer rate collected pursuant to Section 10.060(H);

Other money which the board directs to be deposited.

(B) This fund may be used only for the repair and replacement of sewer facilities within the hillside sewer maintenance zone as defined by District Ordinance Code Section 10.110.

4.060 Trust Funds.

(A) Money to be deposited in the trust fund of the district shall consist of the following:

- (1) Deposits assuring payment for services provided by district;
- (2) Cash bonds assuring installation of sewers; and
- (3) Other money which the board directs to be deposited.

(B) This fund may be used only for reimbursement of persons depositing money with the district, reimbursement for sewer installations, and payment to district for services provided and secured by deposits.

4.070 Repeal by Ord. 149, April 10, 2019.

4.080 Storm Drainage Zone Reserve Account.

(A) Money to be deposited in the storm drainage zone reserve account of the district shall consist of the following:

- (1) Funds from the storm drainage service charge account collected from all properties within the storm drainage zones as defined by District Ordinance Code Section 10.115; and

(2) Other money which the board directs to be deposited.

4.100 Surplus Property. District owned property is considered surplus property when it has been determined to be obsolete, unusable, ineffective, or otherwise deemed to have reached its useful life. Surplus property may include capital assets, equipment, supplies, and materials. A surplus sales system to dispose of surplus property requires the establishment of efficient procedures, fiscal controls, and authority to administer the disposal of surplus property.

4.110 Surplus Sales Officer. The district manager or appointee shall be and is appointed to perform the functions of the surplus sales officer for the district and shall have the responsibility and authority to:

(A) Sell surplus property as may be required by the district in accordance with procedures prescribed either by this chapter, or by such administrative rules and regulations as the surplus sales officer may adopt pursuant thereto;

(B) Prepare and adopt administrative rules and regulations not in conflict with the provisions of this chapter for the purpose of carrying out the requirements and intent of this chapter.

4.120 Centralized Sales. To the extent that efficiency, maximum return on investment, fair and reasonable pricing may best be achieved in the sale of surplus property, the process for disposal and acceptance of all bids or payments, if any, surplus property be centralized under the surplus sales officer.

4.130 Notice of Surplus Status. All departments of the district shall notify the surplus sales officer, whenever it is determined that such department requires disposal of surplus property. Said notification shall be a prerequisite to the sale of any surplus property.

4.140 Surplus Sales by Auction Only.

(A) Sales of surplus property, which, in the opinion of the surplus sales officer, have an estimated individual value of five thousand dollars (\$5,000) or more, shall be made only by means of public auctions held under the authority and scrutiny of the surplus sales officer, or through contracted private auction services selected by the surplus sales officer.

(B) Public auction sales held by the surplus sales officer shall be with reserve and any surplus property can be withdrawn at any time prior to the completion of the sale.

(C) At the sole discretion of the surplus sales officer, a private auction service can be used to dispose of surplus property to satisfy public auction requirements. In this case, no reserve shall be required.

4.150 Bidding and Payment. All sales of surplus property made by public auction, as set forth in Section 4.140(B), shall be to the highest bidder pursuant to the procedure hereinafter described:

(A) Notices inviting bids shall be prepared, published through an e-commerce platform or once in a newspaper of general circulation published and circulated within the district service area, and distributed to persons who have requested to be notified of such bidding opportunities. The notices shall contain a description of the items to be auctioned and the reserve set for each item, shall state where and when the items may be viewed prior to the auction, and shall state the time and place of the auction.

(B) A twenty percent (20%) deposit must be made by the successful bidder. All sales must be completed within one (1) week of the auction, and payment may be made only by cash, certified check, cashier's check or money order.

(C) On refusal or failure of the successful bidder to complete the sale as prescribed above, the sale may be made to the next highest bidder, and the twenty percent (20%) deposit forfeited. Or

(D) If the sale of surplus property is made through a private auction service, the net auction proceeds are to be paid to the district, accompany with detailed accounting of commission and fees statement.

4.160 Open Market Sales. Surplus property may be sold on the open market by the surplus sales officer without regard to formal bidding procedures as required by Section 4.140, Surplus Sales by Auction, when, in his or her opinion, the individual estimated value of the supplies property is less than five thousand dollars (\$5,000); provided, however, that whenever practical, price offers shall be solicited either orally or in writing and the sale is made to a responsible buyer with the highest offer, or at the listed sale price, whichever is higher. The method of advertisement for open market sales includes but is not limited to local newspapers, specialty

advertisement circulations, internet sale sites, and/or other modes of advertisement that solicits offers from the public-at-large.

4.170 Sales to Other Public Agencies. The sale of surplus property to any other public agency created under the laws of the State of California or of the United States government is exempted from the provisions of this chapter. The surplus sales officer may sell surplus property directly to a public agency for a price deemed to be fair and reasonable with respect to his or her opinion of estimated market value.

4.180 Sales to Officials, Officers, and Employees of the District. Officials, officers, and employees of the district, when not otherwise prohibited by law, may purchase surplus property offered for sale under the provisions of this chapter; except that no purchase may be made by the employee performing the functions of surplus sales officer. However, said purchases may only be made through the sale process involving public auction, private auction, or open market sales.

4.190 Contracting for Public Works. The letting of all contracts for public works by the district shall be governed by the provisions of Section 20780, et seq., of the California Public Contracts Code. Notwithstanding the provisions of Section 20783, all contracts for public works in excess of thirty- five thousand dollars (\$35,000) shall be approved by the board of directors.

4.200 Purchases of Supplies, Equipment, and Services – Authority. The district manager is vested with the authority for the purchases of supplies, equipment, and services, and shall have the responsibility and authority to:

(A) Purchase or contract for supplies, equipment, and services to be performed as may be required by any department of the district in accordance with procedures described in this chapter or by such administrative rules and regulations as the surplus sales officer may adopt pursuant thereto.

(B) Prepare and adopt administrative rules and regulations not in conflict with provisions of this chapter, for the purpose of carrying out the requirement and intent of this chapter.

4.210 Board Approval of Purchases. In instances where the acquisition of supplies, equipment, or services other than public works contracts will result in an award of a contract or the issuance of a purchase order with a dollar value equal to or in excess of thirty-five thousand dollars (\$35,000), such award of contract or issuance of purchase order will be authorized only upon action taken by the board of directors. Such action shall be taken through the formal competitive bidding procedure similar to that utilized for public works projects as set forth in Section 20783 of the Public Works Contract Code, or, pursuant to the recommendation of the district manager when the use of the bidding procedure is not practicable due to limitations on supply, requirement to conform to necessary standardization, quality considerations, or for other waivers deemed valid by the district manager.

Notwithstanding the provisions of this section, the district manager shall be authorized to award a contract or to issue a purchase order without regard to the dollar value described above in the following instances:

(A) Emergency Purchase: The immediate acquisition of supplies, equipment, or service necessary for the safe, reliable, and continued operation of the district, or for the preservation of life or property, shall be deemed to be an emergency purchase. A full report of the circumstances of emergency purchases in excess of the expenditure limits cited dollar value described above shall be filed with the district board at its next regular or special meeting.

(B) Recurring Costs: Recurring costs include conditions where reasonable advance estimates of cost are not possible, or for essential services that are recurring nature. Recurring costs include, but are not limited to, such items as sole provider utility service for water, electricity and gas, approved claims for liability under the district's insurance program, renewal premium for authorized insurance policies, all expenditures for the district's payroll and employee withholdings, and other related or unrelated matters involving unknown advance cost estimates.

4.220 Exemption of Purchase from or through Other Public Agencies. Purchases of supplies, equipment and services from any other local, state, or federal agency or through the State Department of General Services pursuant to Section 54205 of the California Government Code and Section 10298 of the Public Contract Code are exempt from the bidding requirements of this chapter; however, any such purchase greater than thirty-five thousand dollars (\$35,000) must be authorized by the district board pursuant to Section 4.210.

5. Amendment: Chapter 6 of the District's Ordinance Code is hereby amended to read as follows:

6.010 Private Sewage Disposal System. The design, construction and maintenance of private sewage disposal systems, septic tank systems or any other method of sewage disposal that is separate from, and does not contribute flow to the district's sewer collection system are governed by the applicable ordinances, codes, rules and regulations of the cities within the district, county and state. The design, construction, and maintenance of private sewer systems that connect to the district's sewer collection system shall be in accordance with the requirements of district's code.

Reference: Section 4762, Health and Safety Code.

6.020 Design of Sewers.

(A) The design, construction, modification, or repair of any new or existing public or private sewer within the district shall be in accordance with the requirements of the district's code, the most current district's sanitary sewerage system design standards (district design standards), and good engineering and planning practices. A copy of the district design standards is on file at the district's office or can be found on the district's website at www.westvalleysan.org. At the discretion of the district manager, certain requirements of the district design standards may be waived, or more stringent standards may be imposed, where unusual conditions are encountered. The district shall document its reasons supporting the district manager's variance from district design standards and include this documentation as an attachment to the district permit issued pursuant to Chapter 9.

(B) In the event any existing residential, mixed-use, commercial, industrial, or quasi-public building is improved, or if a change of use category is being made, requiring the issuance of a permit, the district manager, in his or her discretion, may require the lower sewer lateral that services the real property to be replaced by the property-owner to meet district design standards. The district shall document the reasons supporting the district manager's requirement to replace the lower sewer lateral and include this documentation as an attachment to the district permit issued.

(C) All plans and specifications for public and private sewers within the district shall be prepared by a civil engineer licensed in the State of California in conformity with such terms and conditions as the district manager may prescribe, which may include the requirement to make

improvements outside of the immediate development area that are deemed necessary due to the downstream impacts of the development. Compliance with these requirements shall be indicated by the district manager's signed approval on the plans and specifications.

Reference: Section 4762.1, Health and Safety Code.

6.030 Permit Required. All public and private sewers within the district, that discharge to the public sewer system shall not be constructed, modified, repaired, or replaced until a district permit is issued pursuant to Chapter 9, or other written authorization is obtained from the district.

Reference: Section 4762.1, Health and Safety Code.

6.040 Construction or Modification of Sewers. All public sewers constructed, modified, repaired, or replaced, shall be performed by contractors registered pursuant to Section 9.060, or by contractors performing work on behalf of the district. All public and private sewers shall be constructed in accordance with the requirements of this code, district design standards, and district approved plans and specifications. In addition, construction and use of building sewers shall be in accordance with the following conditions:

(A) A building sewer must serve each individual building site within a proposed development;

(B) The location and method of connection to the district's sanitary sewer system shall be approved by the district manager;

(C) Materials and method of construction shall be in conformance with the district design standards;

(D) Each building shall have its own separate and independent building sewer. In the event there are multiple buildings on a single parcel, and at the discretion of the district manager, the use of a common building sewer for multiple buildings may be allowed; and,

(E) All required district permit(s) must be obtained before connecting to any building's plumbing system to a new or existing building sewer. The upper sewer lateral and backflow protective device, if required, shall be constructed in accordance with the codes, rules and regulations of the City or County Building Department that has jurisdiction over the building.

(F) If the building sewer must traverse through a property or properties to connect to a public sewer, a private sewer easement must be established with the owner or owners of the

affected properties. The district shall review the easement document for general conformity with the proposed alignment of the building sewer and the proposed connection point to the public sewer. Prior to the issuance of the district permit, the permittee shall be responsible for and present to the district a copy of the private sewer easement recorded with the County Recorder's Office.

6.050 Backflow Protective Device: Purpose. Due to natural topographical conditions and common sewer system characteristics, there is a risk of harm to human health, property, and the environment due to the possibility of a sanitary sewer overflow occurring on public and private property. It is the purpose of the following Sections 6.060, 6.070, and 6.080 to address that risk by requiring the property-owner to install and maintain an approved backflow protective device where warranted and as deemed necessary by the district manager.

Reference: Section 4762.1, Health and Safety Code.

6.060 Backflow Protective Device: Requirement. The property-owner of any improved real property is required to install, maintain at all times in operable condition at that property-owner's sole expense, a backflow protective device to protect all structures located on the property that are served by the district's sewer system. The requirement to install a backflow protective device may be enforced through the district permitting process, or by written notice issued by the district manager, whenever:

(A) The lowest floor elevation of any structure containing a plumbing fixture is less than one (1) foot above the surface elevation of the nearest upstream sewer manhole, vertical riser, or similar structure connected to the district's sewer system; or

(B) The district manager determines, in his or her sole discretion, based upon site-specific sewer system conditions, or past occurrence of a sewer backup at the property, that installation and maintenance of a backflow protective device on the property is necessary, as described in Section 6.050 of the district's code.

6.070 Backflow Protective Device: Installation and Maintenance.

(A) All backflow protective devices shall be located and installed in accordance with the standards prescribed by the local building department with jurisdiction over the installation of the device. Once installed, the property-owner shall maintain the backflow protective device to

ensure that it remains fully operational and performs the intended purpose of protecting the structure it serves from sewage backups.

(B) If the property-owner is required by permit to install a backflow protective device, then the property-owner has up to three hundred sixty-five (365) calendar days from the date of issuance to install the required backflow protective device. If the backflow protective device was required through written notice from the district manager, the property-owner has up to sixty (60) calendar days from the date of issuance to install the required backflow protective device. In either instance, the installation shall not be considered completed until the local building department with jurisdiction over the installation of the device has issued a final building permit. The district manager may, at his discretion, establish alternate installation time requirements

(C) The district will not be held liable for any property damage resulting from a property-owner's failure to comply with this chapter.

(D) The district will not finalize a permit or issue a clearance letter until a backflow protective device is properly installed, and accepted final building permit issued by the local building department with jurisdiction over the project.

6.080 Backflow Protective Device: Failure to Install. It shall be unlawful for the property-owner to have a building sewer connected to the sewerage system of the district without an approved sewage backflow protective device, if required by provisions of Section 6.040 through 6.060 of the district's code.

6.090 Responsibility for Defects, Damages, or Violations. All persons performing work on or adjacent to, or any remote work that adversely impacts, the district sewer system shall be held strictly responsible for any and all acts of its agents, employees and subcontractors. Said Person, upon recognizing that work performed caused a defect, damage, or violation of the district code, immediately notify the district of such adverse impact. Person may also be notified in writing by the district manager of any defect, damage, or violation of the district code, that is discovered by the district. In both cases, the person shall take immediate steps to correct such defect, damage, or violation as directed by the district. If said Person does not correct such defect, damage, or violation after a reasonable amount of time after notice to do so, the district may correct such defect, damage, or violation at the said person's expense. In the case where the defect, damage, or violation is of immediate threat to health and safety, no notice is required and district will

either direct Person to make corrections or perform corrections itself.

6.100 Building Sewer Maintenance. The district will maintain all publicly owned portions of building sewers within the district to the extent conditions allow district staff to safely access and maintain the building sewer, subject to the conditions below:

(A) Extent of District Maintenance: The district will maintain that part of each building sewer lying within a public right-of-way (lower sewer lateral). The district shall not be responsible for the maintenance, or any expense incurred by a property-owner, for the maintenance of a building sewer that is considered to be privately owned; e.g. upper sewer laterals, easement sewer laterals, and building sewers that are connected to a private sewer system.

(B) Type of Maintenance Performed by District: If a properly installed, maintained, and accessible property line cleanout exists, the district will perform the following types of maintenance on the lower sewer lateral, except when the need for maintenance is caused by any person violating any provision of this code:

(1) Removal of blockages;

(2) Removal and or treatment of root growths that are causing, or may cause blockages;

(3) Repair or replacement of all, or a part of the lower sewer lateral when its condition is deemed, by the district manager, to be an unreasonable inconvenience to the users of the building sewer, or when replacement becomes more economical than the maintenance being performed by the district.

(C) Obligations of a Property-Owner: The property-owner shall have the following obligations:

(1) The property-owner retains ownership and maintenance responsibilities for all private sewer system components, including main sewers, building sewers, sewer structures and appurtenances;

(2) Maintenance of a private building sewer, or private portion thereof, by the property-owner requires that all debris generated during this operation be thoroughly removed and or flushed from the entire building sewer into the main sewers. If a blockage in the lower sewer lateral or receiving main sewer is found to be caused by the property-owner's maintenance

activities, all district repair and or maintenance costs associated with removal of the blockage will be the responsibility of the property-owner;

(3) Installation of an approved property line cleanout on each building sewer as required by district permit, or as determined by the district manager, is required has the following requirements:

(a) The requirement to install a property line cleanout shall be imposed by the district for any work requiring a district permit, or when in the district manager's opinion, the lower sewer lateral has experienced a high frequency or severity of blockages, or when an existing property line cleanout is deemed not to conform with district design standards. If the district manager exercises the authority to require the installation of a property line cleanout when no district permit would otherwise be required, a written notice of this requirement will be provided to the property-owner. In this case, the property-owner shall obtain a district permit specifically for the installation of the property line cleanout.

(b) Upon issuance of a district permit the property-owner shall determine the legal location of their property line, and engage the services of a contractor registered pursuant to Section 9.060 to accomplish said installation in accordance with district design standards. If the district permit issued is primarily associated with work other than the property line cleanout, the property-owner has up to three hundred sixty-five (365) calendar days from the date of issuance to install the required cleanout. If the district permit is issued specifically for the property line cleanout, the property-owner has up to sixty (60) calendar days from the date of issuance to install the required cleanout. In both cases, the installation is not deemed complete until the installation is inspected and accepted by district staff.

(c) The district manager may exercise his authority to designate an alternate length of time and or extend the required installation time for a property line cleanout. However, failure to install a property line cleanout within the required timeframe will be considered a violation of this code.

(4) If an approved property line cleanout has not been installed to access the lower sewer lateral, or has not been maintained to provide clear and unfettered access for district maintenance staff, it is considered a violation of this ordinance. In this case, the maintenance obligation for the entire building sewer and any resultant backup or sanitary sewer overflow due to the lack of maintenance shall be the responsibility of the property-owner. Clear and unfettered

access, as determined by the district manager, requires that no obstructions exist on or near the property line cleanout that prevents direct access to it by district maintenance staff from the street and ability to safely and properly utilize maintenance equipment.

(D) Request for Maintenance by Property-Owner: Prior to submitting a request to the district to perform maintenance of a building sewer, the property-owner shall attempt to determine the location of the problem and whether a property line cleanout exists. If the problem is located in the upper sewer lateral, the property-owner shall proceed to maintain said building sewer at their own expense. Otherwise, the property-owner should contact the district for service.

(E) Costs Paid by Property-Owner: All expenses incident to the obligations of a property-owner set forth in Section 6.100(C) shall be borne by the property-owner. The property-owner shall indemnify the district from any loss or damage that may directly or indirectly be occasioned by such work, as further set forth in Section 9.100.

6. Amendment: Chapter 7 of the District's Ordinance Code is hereby amended to read as follows:

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.

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.

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.

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.

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.

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.

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.

7.080 Pretreatment by Owner. Each owner of a private premises shall, at the owner'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.

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.

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.

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.

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.

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).

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 fifty parts per million (150 ppm) by weight.

(B) No person shall discharge, cause, allow, or permit any FOG discharge from a food service establishment 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 food service establishment. No yellow grease from a food service establishment shall be mixed with grease trap or grease interceptor waste.

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.

7.160 Corrosive 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, 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.

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.

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> Maximum Allowable		<u>Low Flow Discharger</u> Maximum Allowable	
	<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
Cyanides	0.5	mg/l	0.5	mg/l
Lead	0.4	mg/l	0.4	mg/l
Mercury	0.010	mg/l	0.010	mg/l

Nickel	0.5	mg/l	2.6	mg/l
Phenol and derivates	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, both grab and composite, shall demonstrate compliance with the above limits.

(D) Any industrial user that violates any of the interfering substances limits must resample and submit sample reports for all pollutants in violation of any applicable permit limits or other pollutants as required by the district manager within thirty (30) days of becoming aware of the violation.

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.

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.

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.

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.

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.

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.

7.250 Garbage.

(A) No person shall discharge, deposit, cause, allow, permit to 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 food service establishment, 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.

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.

7.270 Installation of Grease Control Devices.

(A) Any food service establishment, or other type of business or establishment where grease or other viscous, obstructing, or objectionable materials may be discharged into a public, private sewer main, or disposal system, shall have a grease control device, and related plumbing, of a size and design 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.
- (f) Shall meet the specifications and be constructed in accordance with the

applicable provisions of the California Plumbing Code and the building code of the local jurisdiction within the district.

(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.

(d) Shall meet the specifications and be constructed in accordance with the applicable provisions of the California Plumbing and building code of the local jurisdiction within the district.

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

(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, so long as the grease control device is located so that it is not obstructed by landscaping or parked vehicles.

(D) Waste discharged from fixtures and equipment in establishments which may contain grease or other objectionable materials including, but not limited to, scullery sinks, pot and pan sinks, dishwashers, food waste disposals, soup kettles, and floor drains located in areas where such objectionable materials may exist, 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.

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 accumulated grease. The use of chemicals, bacteria, enzymes, or other additives that have the effect of emulsifying or dissolving grease is prohibited unless specifically authorized by the district manager in writing. 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, surcharge of the grease control device, or interference with the operation of the district's sanitary sewer system.

(1) Grease traps shall be cleaned at least once every thirty (30) days.

(2) Grease interceptors shall be cleaned at least once every ninety (90) days.

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

(4) Grease control devices shall be cleaned when their last chamber is filled to twenty-five percent (25%) or more of capacity with grease or settled solids. Grease interceptors with a sample box shall be cleaned immediately when grease is evident in the sample box.

(5) Grease control devices shall be cleaned by being pumped dry and all accumulated sludge on all surfaces shall be removed by washing down the sides, baffles and tees. No water removed from the device during cleaning shall be returned to the grease control device.

(C) 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 capacity 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) Food service establishments 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) Abandoned grease control devices, or grease interceptors, shall be emptied and filled in the same manner as required for abandoned septic tanks per the guidelines of the County of Santa Clara Department of Environmental Health.

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.

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 thirty (30) 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) Orthodontics;
- (2) Periodontics;
- (3) Oral and maxillofacial surgery;
- (4) Radiology;
- (5) Oral pathology or oral medicine;
- (6) Endodontistry and prosthodontistry.

(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.

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.

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.

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.

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.

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 for the purpose of 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; 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 inspecting and copying any records relating to quantity and quality of wastewater discharges, including, but not limited to, water usage and effluent discharged, chemical usage, and hazardous waste records.

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

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.

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.

(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, 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 40 CFR part 136 and amendments thereto. Where 40 CFR part 136 does not contain sampling or analytical methods for the pollutant in question, or where the district manager determines that 40 CFR part 136 is inappropriate for the pollutant in question, sampling and analysis shall be performed by using analytical methods validated by the district manager.

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.

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.

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, or federal regulations; 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.

7.410 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.

7.420 Civil Penalties.

(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.

7.430 Mandatory Wastewater Discharge Permits. No critical 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.

7.440 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.

7.450 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.

7.460 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.

7.470 Signature Requirements.

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

(B) Such executive officer shall be at least of the level of vice-president, general partner, president, or an individual responsible for the overall operation of the facility applying for said permit, or meet federal requirements for NPDES applications as contained in Title 40 of the Code of Federal Regulations.

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

7.480 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 thirty (30) working 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.

7.490 No Transfer of Permit. 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. However, nothing in this ordinance shall be construed to prevent the application of terms and conditions of this ordinance, including enforcement penalties, from applying to a succeeding owner, successor in interest, or other assigns of an existing contract of permit holder.

7.500 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.

7.510 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;

(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.

7.520 Waiver of Pollutants Not Present.

(A) A categorical industrial user seeking to request a waiver of monitoring requirements for pollutants not present must submit the following with its permit application:

(1) 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 permit, and a new request for waiver must be submitted for each new permit.

7.530 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.

7.540 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.

7.550 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.

7.560 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.

7. Amendment: Chapter 9 of the District's Ordinance Code is hereby amended to read as follows:

9.010 Permit Required.

(A) For the purpose of this Chapter 9, a "permit" is for the construction of improvements, modifications, or repairs to any new, existing, private, or public sewer, connecting to or disconnecting from the district's sanitary sewer system.

(B) No person shall engage in any of the following activities within the district without first obtaining a permit or project clearance letter issued by the district manager:

(1) Construction or repair of any public sanitary sewer, including any private sanitary sewer intended to be dedicated to a public agency.

- (2) Construction of any private sewer intended to be connected to the district's sanitary sewer system, including, but not limited to:
- (a) Connections from any new or replacement structure.
 - (b) Connections from any existing structure intended to replace a septic system or other on-site disposal system.
 - (c) Connections intended to serve a new or existing commercial, industrial, or quasi-public structure, a single family dwelling, accessory dwelling unit, junior accessory dwelling unit, auxiliary structure, multiple dwelling unit, or mobile home.
- (3) Disconnection of any sewer from the district's sanitary sewer system.
- (4) Construction, installation, or repair of any plumbing system which is connected to a sanitary sewer.
- (5) Replacement installation, or repair of any building sewer that is connected or will be connected to the lower sewer lateral or public sewer main.
- (6) The change of use in any commercial, industrial, residential, or quasi-public structure which is connected to the district's sanitary sewer system as determined by the district manager.
- (7) The subdivision or lot split of any parcel or parcels.
- (8) The installation of a backflow protective device or a property line cleanout as determined to be required by the district manager per Chapter 6.060 (B) – Backflow Protective Device: Requirement and Chapter 6.100 (C) Building Sewer Maintenance – Obligations of a Property-Owner, respectively.
- (9) Works within the district or public easement with district facilities on private property.

9.015 Repeal by Ord. 146, June 14, 2017.

9.020 Permit Application. The applicant for a permit shall submit:

- (A) A description of the work proposed;
- (B) The location of the work;
- (C) The date the work will begin;
- (D) The name of the contact person of the permitted work;

(E) If applicable for commercial applicants, a current tenant roster including addresses, suite numbers, and respective square footages for each commercial tenant; and

(F) If requested by the district, a set of construction plans stamped and signed by either a civil engineer, or land surveyor that is currently licensed with the State of California indicating the complete scope of work, to include all existing and proposed structures with the current and proposed elevations of the lowest finished floor with a plumbed fixture.

9.030 Permit Form and Agreement. The district manager may prescribe the form of permit and require information in addition to that required by Section 9.020. The signature of the applicant on the permit application is an agreement to comply with the rules and regulations of the district. The permit applicant shall be deemed as a designee of the property-owner, with all associated fees and requirements being the ultimate responsibility of the property-owner.

9.040 Inspection. The work done under each permit shall be inspected by the district. All work performed pursuant to a permit shall remain uncovered and visible until it has been inspected and finally approved by the district. Work that has been covered without approval, at the district's request, shall be uncovered for inspection and the property-owner shall bear all associated costs therefor. If the work does not meet the district's standards and requirements, the district may order disconnection of the work from its sewer system or other corrective measures at the expense of the permittee.

The permittee shall advise the district that work is ready for inspection by giving two (2) working days' notice in advance of the day inspection is requested.

Cross-reference: See Section 10.010 for inspection fees.

9.045 Permit Issuance. The district manager shall issue all permits under this chapter. However, the district manager shall not issue any permit which, in his opinion, will cause the district to exceed its ability to adequately treat the wastewater that would result from the issuance of such a permit. Any refusal to issue any permit under this chapter is subject to the appeals procedure provided for in Chapter 11 of the district's code.

9.050 Effective Period of Permit. A permit is effective for a period of one (1) year from the date of issuance to completion of the permitted work. The district manager may, for good cause

shown, extend any permit beyond the initial one (1) year period described above for no more than one additional year, provided that:

(A) The specific activities permitted by the extension are substantially the same as the activities permitted by the original permit;

(B) The applicant pays all applicable fees and charges existing as of the date that the extension is granted except that a credit shall be given for fees and charges paid under the original permit, to the extent they have not been previously expended by the district or any other government agency or they represent payment for work not yet done by the district or any other government agency in administering the permit process.

A permit is not transferable except those permits issued for a connection of a plumbing system to a building sewer.

9.060 Contractor Registration. The contractor used for the construction or repair of any public sewer (including the lower sewer lateral), shall be properly licensed for the work by the State of California Contractor's State License Board and shall register with the district prior to being issued a permit for such work.

In order to become eligible for registration with the district, a contractor shall:

(A) File certificates evidencing maintenance of workers' compensation insurance, and public liability insurance in such amount as determined by the district manager.

(B) Certificates of endorsements naming the "West Valley Sanitation District, City of Campbell, Town of Los Gatos, City of Monte Sereno, City of Saratoga, and County of Santa Clara and their officers and employees" as additional insured under the contractor's insurance policies; and,

(C) A bond in such amount as determined by the district manager, in the form prescribed by the district, for the purpose of assuring compliance with the rules, regulations and specifications for the excavation within a public right-of-way and naming the West Valley Sanitation District, City of Campbell, Town of Los Gatos, City of Monte Sereno, City of Saratoga, and County of Santa Clara as obligees.

(D) Other documentation as may be required by the district manager.

9.070 District May Correct Defective Work. If a property-owner fails to correct defective work within ten (10) days after the district gives notice to do so, the district may proceed to correct the

defective work, and the property-owner shall compensate the district for the cost thereof, including all direct labor, equipment, material, and overhead costs. If, in the opinion of the district manager, the defective work creates an emergency which should be corrected immediately, the district manager may order the property-owner to correct the defect within a specified period of time. If the property-owner fails to respond within the time specified, the district may proceed to correct the defective work and the property-owner shall compensate the district for the cost thereof, including all direct labor, equipment, material, and overhead costs.

9.080 Repair Work. Any person damages any portion of a public sewer (including lower sewer laterals), and does not apply to the district for a permit to make the required repairs to the said sewers within ten (10) days after the district gives notice to do so, the district may proceed to make said repairs and the person damaging said sewers shall compensate the district for the cost thereof, including all direct labor, equipment, materials, and overhead costs. If in the opinion of the district manager, the damage to the said sewers creates an emergency which should be corrected immediately, the district manager may order said person to make the repair within a specified period of time. If ordered to make repairs, and said person fails to respond within the time specified, the district may proceed to make the repairs and said person shall compensate the district for the cost thereof, including all direct labor, equipment material, and overhead costs.

9.090 Suspension or Revocation of Permits. If the permit applicant holder fails or refuses to comply with any provision or condition of the permit, this code, the rules, regulations and orders of the district manager, or the rules and regulations of a municipal, county, state or federal agency, the district manager shall have the authority to suspend the permit by giving written notice of the suspension to the permit holder. The written notice shall state that the permit is suspended, the reasons for the suspension, and the effective date of suspension. The suspension continues until the permit holder removes the grounds for suspension, but in no event shall the suspension be in effect for longer than six (6) months from its effective date. All orders of suspension are subject to the appeals procedures provided for in Chapter 11 of the district's code.

If any of the grounds for a suspension continue during the period of the suspension, and, in the opinion of the district manager, are likely to continue past the termination date of the suspension; he may give written notice to the permit holder specifying the time and place of a hearing before the district board of directors to consider the revocation of the permit. Said notice

shall be given at least ten (10) days prior to said hearing, served in the manner prescribed in Sections 11.020 thru 11.040 of the district's code and shall include the grounds for the proposed revocation.

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

9.100 Liability. The district, its officers and employees shall not be liable for personal injury, loss of life, or damage to any property consequent to the performance of any work pursuant to a permit issued by the district. permit applicant shall indemnify the district, its officers and employees free and harmless from any such liability imposed by law upon the district, its officers and employees, including all costs, expenses, fees and interest incurred in legal defense of any action to enforce such liability, or the enforcement of this section. The permit applicant shall be solely liable for any defects in the performance of his work or any failure which may develop therein.

8. Amendment: Chapter 10 of the District's Ordinance Code is hereby amended to read as follows:

10.010 Administrative and Miscellaneous Fees - Purpose. The purpose of administrative and miscellaneous fees is to defray the costs incurred by the district in the processing of applications, plan approvals, and all other administrative tasks involved in the connection or disconnection of properties to the sewer system, or substantial alteration to the use of an existing connection. The revenue from said fees may not exceed the reasonable costs to the district for providing these services.

10.020 Administrative and Miscellaneous Fee Schedule. The following administrative and miscellaneous fees are established:

(A) Annexation Fee.

(1) The annexation fee is one thousand one hundred dollars (\$1,100) per annexation application, to be paid at the time of filing the application with the district.

(2) The property-owner(s) to be annexed are responsible for all fees payable to other public agencies and for the preparation of all necessary documents required by the district and other agencies, including application forms, maps, legal descriptions, environmental documents

and other information. Special arrangements may be made with the district manager to assess the annexation fee at the time of issuance of a permit to connect.

(B) Fee for Approval of Public Sewer Plans. The fee for approval of public sewer plans is seven hundred seventy dollars (\$770) or two percent (2%) of the total estimated project cost, whichever is greater, payable at the time of application. For the purposes of estimating the project cost, the district will assume an average cost of two hundred dollars (\$200) per lineal foot of installed sewer. In no event shall this fee exceed the district's reasonable costs of providing the approval service.

(C) Fee for Permit to Connect to the Public Sewer Requiring Television Inspection. The fee for a permit to connect to the public sewer requiring a television inspection is four hundred twenty-five dollars (\$425), payable prior to issuance of the permit.

(D) Fee for Permit to Connect to the Public Sewer Not Requiring Television Inspection. The fee for a permit to connect to the public sewer not requiring a television inspection is two hundred fifty dollars (\$250), payable prior to issuance of the permit.

(E) Fee for Inspection of a Public Sewer. The fee for inspection of a public sewer is one thousand dollars (\$1,000) or three percent (3%) of the total estimated project cost, whichever is greater, payable at the time of application. For the purposes of estimating the project cost, the district will assume an average cost of two hundred dollars (\$200) per lineal foot of installed sewer. In no event shall this fee exceed the district's reasonable costs of providing the inspection service.

(F) Fee for Disconnection from a Public Sewer. The fee for disconnection from a public sewer is one hundred thirty-five dollars (\$135) payable prior to issuance of the disconnection permit.

(G) Fee for Television Inspection of Existing Lateral Sewers in the Public Right of Way (with cleanout access). The fee for television inspection of existing lateral sewers in public right of ways is one hundred seventy-five dollars (\$175), payable prior to commencement of the inspection.

(H) Fee for Inspection of a New Sewer Lateral Installation in the Public Right of Way. The fee for inspection of a new single sewer lateral installation in the public right of way is five hundred fifty dollars (\$550), payable prior to commencement of the inspection.

(I) Fee for Re-inspection. A re-inspection fee at district's actual incurred costs may be assessed for any repeated call backs due to work not meeting district design standards.

10.030 Review of Processing Fees. The district manager shall review the processing costs for the fees described in Section 10.020 periodically and shall recommend to the board of directors modifications in the amount, or application of any, and all, such processing fees based upon the district's reasonable costs of providing the services.

10.040 Repealed by Ord. 127, May 26, 1999.

10.050 Repealed by Ord. 127, May 26, 1999.

10.060 Sewer Service Rate Schedule. There is hereby levied and assessed upon each premises within the district having any connection with the district sanitary sewer system , a sewer service rate which shall be used only for the acquisition, construction, reconstruction, maintenance and operation of the district's sanitary sewer system, to repay principal and interest on any bonds issued for the construction or reconstruction of sanitary sewerage facilities, and to repay federal or state loans, or advances made to the district for the construction or reconstruction of sanitary sewerage facilities. However, the revenue shall not be used for the acquisition or construction of new local street sewers or laterals as distinguished from main trunk, interceptor and outfall sewers. The amount of said charge for each premises shall be determined as hereinafter provided, and shall be payable and collected as hereinafter provided.

(A) Rate for Single-Family Residential and Residential Condominium Premises. For each single-family premises and each residential condominium premises, the sewer service rate shall be as follows:

<u>Monthly Rate</u>	<u>Effective Dates</u>
\$ 46.25	July 1, 2018
\$ 48.87	July 1, 2019
\$ 51.63	July 1, 2020
\$ 54.56	July 1, 2021
\$ 57.65	July 1, 2022

(B) Rate for Multi-Family Premises. For each separate dwelling unit in multi-family premises, the sewer service rate shall be as follows:

<u>Monthly Rate</u>	<u>Effective Dates</u>
\$ 32.96	July 1, 2018

\$ 35.55	July 1, 2019
\$ 38.35	July 1, 2020
\$ 41.38	July 1, 2021
\$ 44.64	July 1, 2022

(C) Charge for Mobile Home Park Premises. For each separate mobile home within a mobile home park premises, the sewer service rate shall be as follows:

<u>Monthly Rate</u>	<u>Effective Dates</u>
\$ 31.53	July 1, 2018
\$ 32.54	July 1, 2019
\$ 33.58	July 1, 2020
\$ 34.65	July 1, 2021
\$ 35.76	July 1, 2022

(D) Accessory Dwelling Unit. For each separate accessory dwelling unit, the sewer service rate shall be as follows:

<u>Monthly Rate</u>	<u>Effective Dates</u>
\$ 31.53	July 1, 2018
\$ 32.54	July 1, 2019
\$ 33.58	July 1, 2020
\$ 34.65	July 1, 2021
\$ 35.76	July 1, 2022

(E) Rate for Commercial, Industrial or Miscellaneous Premises, and Commercial, Industrial or Miscellaneous Condominium Premises. The sewer service rate for each commercial, industrial or miscellaneous premises shall be the following amounts, as described in Schedule A below, for each one hundred (100) cubic feet (HCF), based on portable water consumption data to determine sanitary sewage discharge or direct measurement of sanitary sewage and industrial waste discharged from said premises into the district’s sanitary sewer system during the twelve (12) months of January through December immediately preceding the fiscal year for which the rate is being calculated:

Schedule A

Commercial Classes	<u>FY2018/19</u>	<u>FY2019/20</u>	<u>FY2020/21</u>	<u>FY2021/22</u>	<u>FY2022/23</u>
Restaurant	\$9.30	\$10.00	\$10.76	\$11.58	\$12.46
Hotel/Motel	4.78	5.11	5.45	5.82	6.22

Gas Station – Repair	5.03	5.30	5.59	5.88	6.20
Domestic Laundry	4.18	4.46	4.76	5.08	5.42
Retail/Office/Misc.	4.79	4.94	5.09	5.24	5.40
Institutional					
Hospitals	\$4.48	\$4.82	\$5.18	\$5.57	\$6.00
Schools	5.41	5.60	5.79	5.99	6.19
Grouped Industries					
Winery	\$14.22	\$15.08	\$15.99	\$16.95	\$17.97
Printing Works	6.46	6.72	7.00	7.28	7.57
Machinery Manufacturing	6.77	7.06	7.36	7.67	7.99
Electrical Equipment	4.56	4.75	4.94	5.14	5.35
Film Service	4.61	4.61	4.61	4.61	4.61
Plating Works	4.24	4.29	4.33	4.38	4.43
Industrial Laundry	9.03	9.34	9.65	9.97	10.31
Car Wash	3.77	4.02	4.29	4.57	4.88

(F) Rate for Commercial, Industrial or Miscellaneous Premises Omitted from Tax Roll for Reasons Other Than Application of an Alternate Charge. If the rate for any commercial, industrial or miscellaneous premises or commercial, industrial or miscellaneous condominium premises is not collected on the tax roll for any reason other than a decision to apply the alternate rate provided for in Section 10.060 (G) to such premises, the rate for such premises shall be the same as listed in Section 10.060 (E) for each one hundred (100) cubic feet of sanitary sewage discharged from commercial, industrial or miscellaneous premises and commercial, industrial or miscellaneous condominium premises into the district’s sanitary sewer system during each calendar month for which the rate is being calculated.

(G) Alternate Rate for Commercial, Industrial or Miscellaneous Premises, and Commercial, Industrial or Miscellaneous Condominium Premises. Notwithstanding the foregoing provisions of Sections 10.060 (E) and (F), if more than fifty thousand (50,000) gallons of sanitary sewage or industrial waste per operating day are discharged into the district’s sanitary sewer system from a commercial, industrial, or miscellaneous premises or a commercial, industrial or miscellaneous condominium premises during three (3) or more calendar months, or if the strength, the amount, or nature of the sewage or waste discharged daily into the sanitary sewer system is intermittent or irregular, and if, in either of the above situations, the district manager deems it’s feasible from an economic and/or engineering standpoint, to measure the amount of biochemical oxygen demand, (BOD) suspended solids and ammonia discharged from

said premises into the district’s sanitary sewer system, an alternate monthly sewer service rate shall be imposed in lieu of those described in Section 10.060 as described in Schedule B below:

Schedule B

<u>Elements of Rate</u>	<u>FY2018/19</u>	<u>FY2019/20</u>	<u>FY2020/21</u>	<u>FY2021/22</u>	<u>FY2022/23</u>
Annual Rate for each 1 million gallons of sewage or waste discharged	\$4,324	\$4,576	\$4,844	\$5,127	\$5,427
<i>Plus:</i>					
Annual Rate for each 1000 lbs. of BOD discharged	\$543	\$574	\$606	\$641	\$677
<i>Plus:</i>					
Annual Rate for each 1000 lbs. of suspended solids discharged	\$485	\$547	\$618	\$697	\$787
<i>Plus:</i>					
Annual Rate for each 1000 lbs. of Ammonia discharged	\$2,929	\$3,481	\$4,136	\$4,914	\$5,839

The decision by the district manager as to whether to impose this alternate sewer service rate shall be made on or before July 1 of this fiscal year for which it is imposed.

(H) Hillside Zone Additional Sewer Rate: A hillside zone additional sewer rate shall be paid by all connected parcels within the hillside zone as defined by District Code Section 10.110. The hillside zone additional sewer rate is necessary to recover the additional costs to serve parcels within the hillside zone. The costs in the hillside zone are higher than the remainder of the district because sanitary sewers in the hillside zone are subject to failure due to land subsidence or erosion and therefore have a shorter life cycle than the pipelines outside of the zone. The amount of the hillside zone additional sewer rate is based on recovering required capital cost for repair or replacement of systems within the hillside zone. For each parcel in the hillside zone that is served by the district’s facilities, the hillside zone additional sewer rate shall be as follows:

<u>Monthly Rate</u>	<u>Effective Date</u>
\$8.33	July 1, 2018

(1) The revenues raised by the hillside zone additional sewer rate shall be allocated to a special hillside zone reserve account. The revenues in the hillside zone reserve account shall be used solely for the repair and replacement of sewer facilities within the hillside zone.

(2) The board of directors shall, from time to time, review hillside zone rate to determine whether the charge will be reasonably necessary to cover the costs of sewer lines repair within the hillside zone area. If the board of directors determines that the revenue derived from the hillside rate will exceed the amount of revenue required to repair of sewer lines, then the board shall by ordinance reduce or suspend the amount of hillside rate imposed on premises in the hillside zone area.

(I) Repeal by Ord 144, May 8, 2013.

(J) Annual Review of Sewer Service Rates; Reduction or Suspension of Increase. Prior to the effective date of any automatic increase in the sewer service rates described in Sections 10.060(A), (B), (C), (D), (E), (F), and (G), the board of directors shall review such increase to determine whether the resulting new charge will be reasonably necessary to cover the costs of providing sanitary sewer service to the premises to be charged. If the board of directors, based upon evidence presented at a public hearing, determines that the revenue derived from the increased sewer service rates will exceed the amount of revenue required to provide sanitary sewer service to any premises, then the board shall by ordinance reduce or suspend the amount of any such increase imposed on any such premises to an amount equal to the reasonable cost of providing said sanitary sewer service to said premises.

10.061 Required Installation of Measurement and Sampling Devices. The district manager may, by written order, direct the operator of commercial, industrial, or miscellaneous premises, and each commercial, industrial, or miscellaneous condominium premises to install and maintain measurement and sampling facilities as hereinafter specified for the purpose of computing sewer service and use charges for such premises. Such written order shall be mailed to the operator, and/or person or persons listed as the property-owner(s) on the last equalized assessment roll of the County of Santa Clara at the address shown on such assessment roll, or to the successor in interest of such property-owner if the name and address of such successor in interest is known to the district manager.

Within sixty (60) days from and after the date of the mailing of the written order, the person or persons to whom such notice is mailed shall install or cause to be installed at his expense, and maintain in proper operating condition at all times, and make accessible to the

district manager or his authorized representatives, whenever sanitary sewage and/or industrial wastes are being discharged into the district's sanitary sewer system, flow measurement and sampling facilities as is hereinafter provided. The flow measurement device can be a parshall flume, weir, venturi nozzle, magnetic flow meter, or any other type of device providing accurate and continuous flow indication. Pump timers or other indirect measurement devices will not be acceptable.

The flow measuring facilities shall be suitable for indicating and totalizing the flow in millions of gallons per day through the measuring facilities, with an error not exceeding plus or minus five percent (5%). The instrument shall be equipped with a set of electrical contacts arranged to momentarily close a circuit to energize a process timer and sampling device for every fixed quantity of flow. This quantity should be selected so as to insure a minimum of fifty (50) samples per day. Other control variations will be acceptable if it can be demonstrated to district manager that the sampling procedure will result in a sample of sanitary sewerage and/or industrial wastes which is proportional to and representative of the sanitary sewage and/or industrial wastes flow. The length of operation of the sampling device shall be dependent on the type of sampling arrangement used, but in no case shall the daily composite sample be less than two (2) quarts in volume.

The method of sampling used can be by continuous pumping past a solenoid-operated valve, direct pumping into the sample container, continuous pumping past a sampler dipper calibrated to remove a constant sample, by a proportional dipper sampler operating directly in the sanitary sewage and/or industrial waste flow, or by any other approved means. All samples must be continuously refrigerated at a temperature of thirty-nine degrees Fahrenheit (39° F), plus or minus five (5°) degrees.

The flow measurement and sampling station shall be located and constructed in a manner acceptable to the district manager. Complete plans on all phases of the proposed installation including all equipment proposed for use, shall be submitted to the district manager for approval prior to construction.

The operator of the premises shall keep flow records as required by the district and shall make such records available to the district manager or his authorized representatives upon request, and shall provide qualified personnel to properly maintain and operate the facilities. Said records need not be kept for more than one (1) year.

If any person fails to install the required measuring and sampling facilities within sixty (60) days from and after the date of the mailing of the written order, the district manager or his authorized representatives shall make such tests from time to time of sanitary sewage and/or industrial wastes being discharged from such premises into the sanitary sewer system as he deems necessary to make an estimate of the sewer service and use charge due and shall prepare a bill or invoice on the basis of such estimate and shall mail said bill or invoice in the same manner and within the time provided for in Section 10.063.

10.062 Methods of Measurement and Analysis of Sanitary Sewage and/or Industrial Wastes.

The district manager, on the basis of standard methods, standard engineering practices and applicable provisions of this chapter, shall determine the adequacy and appropriateness of methods employed to measure the volume of sanitary sewage, industrial wastes, amount of biochemical oxygen demand, the amount of suspended solids, and the amount of ammonia discharged into the district's sanitary sewer system for the purpose of computing the sewer service and use charges pursuant to Section 10.060 (G) hereof. The district manager on the basis of standard methods, standard engineering practices, applicable provisions of this chapter, applicable state and federal regulations and guidelines, records of past water consumption, biological oxygen demand concentration, suspended solids concentration and ammonia concentration, shall determine the characteristic sewage strength and the sewage treatment plant capacity required to accommodate the flow and treat the biological oxygen demand, suspended solids, and ammonia and the annual amount of sewage, biological oxygen demand, suspended solids and ammonia concentration for purposes of computing the charge for sewage treatment plant capacity and charges for discharging sewage into the sanitary sewer system pursuant to the provisions of Section 10.060 (G). Laboratory procedures used in the examination of sanitary sewage and/or industrial wastes to determine the pounds of biochemical oxygen demand, of suspended solids and of ammonia being discharged into the sanitary sewer system shall be those set forth in "standard methods." However, in the discretion of the district manager or his authorized representatives, and with the consent of the interested owner of the premises involved, alternative methods for certain analyses of sanitary sewage and/or industrial wastes may be used as long as they reflect the nature and quality of the sanitary sewage and/or industrial wastes being discharged into the sanitary sewer system.

10.063 Repeal by Ord. 149, April 10, 2019.

10.064 Collection of Charges Omitted from Tax Roll and for Governmental and Public

Premises; Billing. The district manager or his authorized representatives shall prepare a detailed statement containing the basis of the calculations, the location of the premises and other relevant information, showing the total charge for:

(A) Any premises which should be collected on the tax roll pursuant to Section 10.150, but was omitted from the tax roll or premises which is collected pursuant to Section 10.060 (F).

(B) Any governmental or public premises, or any premises which are not subject to taxation on the tax roll.

Under the authority of California Code of Civil Procedure Section 338(a), the district manager may collect past due or missed payments for the current year and for up to the previous three (3) years, if applicable. On the basis of the statement, the district manager shall prepare a bill or invoice and shall mail said bill or invoice to the person or persons listed as the property-owners of the premises on the last equalized assessment roll of the County of Santa Clara at the address shown on such assessment roll or to the successor in interest of such property-owner if the name and address of such successor in interest is known to the district manager. Failure to mail any such bill or invoice, or failure of any property-owner to receive any such bill or invoice shall not excuse the property-owner of any premises from the obligation of paying any sewer service and use charge for any premises owned by him.

The interested property-owner may, at any reasonable time, review the detailed statement prepared by the district manager.

The sewer service and use charge for such premises shall be due and payable on the date the bill or invoice referred to in this section is mailed.

10.065 Adjustments. It is the intent of the provisions of this chapter in establishing different sewer service rates for different classes of premises, to establish higher charges for those classes of premises which derive greater benefit from, or impose greater burdens upon, the district's sanitary sewer system because of the quantity, quality or rate of flow of sanitary sewage and industrial wastes which may be or is discharged by such class of premises into said sewer system, giving full consideration to other fees or charges which may be paid by property-owners of said premises for the operation, maintenance, expansion, extension or development of said sewer

system. If, with respect to any of said premises, the board of directors of the district should find that the charge applicable thereof is unfair or inequitable, then in that event said board may by resolution, agreement or otherwise, establish a special sewer service rate and use charge for such premises, different from those above provided, and having a closer relationship to the benefit received, or burden placed, by such premises from or upon said sanitary sewer system, giving due consideration to other fees or charges paid by such premises for said sewer system. However, any such agreement and any such special sewer charge may at any time be revoked or changed by resolution of the board whenever it finds that continuance of the same would be unfair or inequitable in the circumstances.

10.066 Payment of Balance of Charge. If the charge for any premises to be collected on the tax roll, or for any premises collected under Section 10.060 (G) or Section 10.064 was less than what should be the charge, therefore, under the provisions of this chapter, the balance of said charge shall be collected by a bill or invoice based on a detailed statement showing the bases of the calculations, the location of the premises and other relevant information. The district manager shall mail said bill or invoice to the person or persons listed as the property-owners of the premises on the last equalized assessment roll of the County of Santa Clara at the address shown on such assessment roll or to the successor in interest of such property-owner if the name and address of such successor in interest is known to the district manager. Failure to mail any such bill or invoice, or failure of any property-owner to receive any such bill or invoice, shall not excuse the property-owner of any premises from the obligation of paying the balance of any sewer service and use charge for any premises owned by him. The interested property-owner may, at any reasonable time, review the detailed statement prepared by the district manager.

The balance of the sewer service and use charge for such premises shall be due and payable on the date the bill or invoice referred to in this section is mailed.

10.067 Delinquency Date. Except as otherwise provided elsewhere in this chapter, each sewer service and use charge shall be delinquent if not paid on or before the forty-fifth (45th) day immediately following the date upon which such sewer service and use charge became due and payable.

10.068 Persons Responsible for Payments. The property-owner of any premises is and shall be responsible for payment of any and all sewer service and use charges applicable to premises owned by him. It shall be, and is hereby made the duty of each such property-owner to ascertain from the district manager, the amount and due date of any such charge applicable to premises owned by him, and to pay such charge when due and payable. It also shall be, and is hereby made the duty of all property-owners of all premises, to inform the district manager immediately of all circumstances, and of any change or changes in any circumstances, which will in any way affect the applicability of any charge to premises owned by him or the amount of any such charge. In particular, but not by way of limitation, a property-owner of any premises shall immediately inform the district manager of any sale or transfer of such premises by or to such property-owner.

10.069 Enforcement. In the event of the failure of any property-owner to pay when due any sewer service and use charges applicable to premises owned by him, the district may enforce payment of such delinquent charges in any of the following manners:

(A) The district manager may have such premises disconnected from the district's sanitary sewer system in accordance with Section 13.060, and no reconnection shall be made until all such charges are paid.

(B) The district manager may institute action in any court of competent jurisdiction, to collect any charges which may be due and payable in the same manner as any other debts owing to the district may be collected.

(C) Any and all delinquent payments may be placed on the tax roll, and collected with property taxes, as hereinafter provided in this chapter.

(D) Such other action may be taken as may be authorized by law and by the district's board of directors.

10.070 Unmetered Wastes. Where the sewer service rates specified in Section 10.060 is to be based on the quantity of sanitary sewage and industrial waste discharged from a unit or premises, and it is not possible or practical for the district to measure the discharge from a unit or premises, the district manager shall make a reasonable estimate of the discharge to be used for calculating the charge. The amount of water delivered to the unit or premises after deducting the estimated

quantity of water which is not discharged to a sanitary sewer, shall be used as a basis for the estimate.

10.080 When Sewer Service and Use Charges Are Due. All sewer service and use charges are due and payable in advance at the office of the district manager, in the manner and at the time as determined by the board. Billings will be issued by the district manager. The first advance sewer service and use charge shall be paid at the time of application for a sewer connection permit.

10.090 Sewer Connection Fee.

(A) Purpose. The purpose of the sewer connection fee is to allow the district to recover the costs associated with the provision of sewer collection lines in the district. The fee is payable at the time of application for connection.

(B) Residential connections. The connection fee to connect a residential property per each separate dwelling unit, to the sewer system shall be the following:

<u>Residential Category</u>	<u>FY2018/19</u>	<u>FY2019/20</u>	<u>FY2020/21</u>
Single-Family Residence	\$9,712	\$10,235	\$10,786
Townhouse/Condominium	\$9,712	\$10,235	\$10,786
Multiple Family Premises Unit	\$8,351	\$8,351	\$8,351
Mobile Home	\$6,727	\$6,727	\$6,727
Accessory Dwelling Unit	\$6,727	\$6,727	\$6,727

(1) Engineer's report - Residential properties connecting to the district sewer system for which sewers have previously been made available and for which there exists an engineer's report filed with the district secretary determining and allocating the cost of said sewers at the time of their construction, the sewer connection fee shall be calculated by the district manager for each such property as set forth in said engineer's report. The calculation shall be done in the same manner as the procedure prescribed in Section 10204 of the Municipal Act of 1913 contained in Division 12 of the Streets and Highways Code of the State of California. The sewer connection fee set forth in the engineer report shall be automatically adjusted annually on each July 1st following the date of the filing of the report, using the change in the Engineering News Record Construction Cost Index (CCI) for the San Francisco area.

(2) The accessory dwelling unit (ADU) connection fee listed is a maximum for an ADU structure that exceeds thirteen (13) drainage fixture units. For an ADU with thirteen (13)

drainage fixture units or less, the connection fee shall be five hundred eleven dollars and sixteen cents (\$511.16) per drainage fixture unit.

(C) Non-Residential Connections.

(1) New connections - For new non-residential connections on properties where sewers have previously been made available, the connection fee shall be proportional to the flows discharged by that connection to the collection system. The district manager or other designated staff shall, on the basis of standard engineering practices and methods, estimate average daily wastewater flows (in gallons per day) for the new connection and multiply those flows by the following unit costs to arrive at the total fee.

<u>All Non-Residential</u>	<u>FY2018/19</u>	<u>FY2019/20</u>	<u>FY2020/21</u>
Flow (per gallon per day)	\$12.83	\$15.97	\$19.88

The report determining this unit cost shall be kept on file at the district and updated as necessary. If, as a direct result of a new connection, the district is required to upgrade the hydraulic capacity of any sewer collection line serving that connection, the connection will be responsible for all direct and actual costs associated with that upgrade, in addition to its connection fee as calculated above.

(2) Demolition/renovation – If, in the judgment of the district manager or other designated staff, the use of a non-residential connection is substantially altered in size through demolition and reconstruction or renovation, the district may assess another connection fee to that property, in the same method as described in section (1), less a credit for any connection fee previously paid by that connection.

10.100 Repealed by Ord. 129, October 27, 1999.

10.110 District Service Area Defined. “Hillside sewer maintenance zone” means and refers to all that territory situated within the hillside zone area of the district as shown and delineated with a report entitled “Establishment of a Hillside Sewer Maintenance Zone within the West Valley Sanitation District”, dated April 4, 1990, which is kept at the district office and is signed by the district manager. The delineation of the territory comprising the hillside zone area is subject to change annually, upon a noticed public hearing.

10.115 Storm Drainage Zones. “Zone A,” “Zone B,” and “Zone C” means and refers to all that territory situated within Zone A, Zone B, and Zone C of the district as shown and delineated by a report entitled “Establishment of Storm Drainage Management Zones within the West Valley Sanitation District,” dated May 27, 1992, which is kept at the district office and is signed by the district manager. The delineation of the territory comprising the storm drainage management zone areas and the number of zones established are subject to change annually, upon a noticed public hearing.

10.120 Treatment Plant Capacity Fee.

(A) Purpose. The purpose of the treatment plant capacity fee is to allow the district to recover its reasonable and actual costs of purchasing treatment capacity at the San Jose – Santa Clara Water Pollution Control Plant. The fee is payable at the time of application for connection.

(B) Residential connections. New residential connections shall pay a one-time treatment plant capacity fee per each separate dwelling unit, as follows:

<u>Residential Category</u>	<u>FY2018/19</u>	<u>FY2019/20</u>	<u>FY2020/21</u>
Single-Family Residence	\$1,397	\$1,514	\$1,642
Townhouse/Condominium	\$1,397	\$1,514	\$1,642
Multiple Family Premises Unit	\$1,168	\$1,219	\$1,271
Mobile Home	\$1,024	\$1,024	\$1,024
Accessory Dwelling Unit	\$1,024	\$1,024	\$1,024

(1) The treatment plant capacity fee applies to the use made of the treatment plant at the time the connection is made. If the use of the connection is changed and the change results in use of additional treatment plant capacity, an additional fee shall be imposed for the changed use. The amount of this fee shall be equal to the fee payable for the total of the original and additional use, less full credit for the fee paid for the original use.

(2) The accessory dwelling unit (ADU) capacity fee listed is a maximum for an ADU structure that exceeds thirteen (13) drainage fixture units. For an ADU with thirteen (13) drainage fixture units or less, the capacity fee shall be seventy-three dollars and fifty-three cents (\$73.53) per drainage fixture unit.

(C) Non-residential connections. New non-residential connections shall pay a one-time treatment plant capacity fee based on the strength and volume of wastewater flows expected to be generated by that connection. The fee is payable at the time of application for connection and is as follows:

<u>All Non-Residential</u>	<u>FY2018/19</u>	<u>FY2019/20</u>	<u>FY2020/21</u>
Flow (per gallon per day)	\$4.84	\$5.82	\$6.99
BOD (per pound per day)	\$331.45	\$365.78	\$403.66
SS (per pound per day)	\$223.39	\$246.51	\$272.03
NH3 (per pound per day)	\$1,205.93	\$1,330.83	\$1,468.66

(1) The district manager, on the basis of standard engineering methods and practices, and information supplied by the connector and relevant engineering studies, shall determine the per day expected average discharge of gallons of wastewater, pounds of biochemical oxygen demand, pounds of suspended solids, and pounds of ammonia to be discharged to the district sewer for the purpose of computing the treatment plant capacity fee. These discharge parameters will be multiplied by unit cost parameters developed by the district to arrive at the total treatment plant capacity fee. The unit cost parameters will be developed based on the most current engineering and cost allocation studies available to the district, and should allow the district to recoup its reasonable and actual costs associated with purchasing treatment capacity in the regional plant. The unit cost parameters will be included in the yearly sewer service revenue program and will be updated by the district manager as needed.

(2) The treatment plant capacity fee applies to the use made of the treatment plant at the time the connection is made. If the use of the connection is changed and the change results in use of additional treatment plant capacity, an additional fee shall be imposed for the changed use. The amount of this fee shall be equal to the fee payable for the total of the original and additional use, less full credit for the fee paid for the original use.

Reference: Section 5474, Health and Safety Code.

10.130 Time of Payment of Sewer Connection and Treatment Plant Capacity Fees. All sewer connection and treatment plant capacity fees shall be paid either immediately prior to the recordation of any subdivision or tract maps with respect to the subject property or properties, or immediately prior to the issuance of a sewer connection permit, whichever event occurs first.

10.140 Repealed by Ord. 129, October 27, 1999.

10.150 Collection of Sewer Service Charges.

(A) Pursuant to, and to the extent authorized by, Health and Safety Code Sections 5473 and 5473a, the district may collect delinquent fees or charges incurred under the district's code on the tax roll for collection by the Santa Clara County Assessor's Office.

(B) The district shall schedule a time, date and place for a public hearing regarding a report of delinquencies and any objections and protests to such report. Notice of the hearing shall be mailed to the property-owner of every premises listed on the report and known as the property-owner on the last equalized assessment roll of the County of Santa Clara at the address shown on such assessment roll or to the successor in interest of such property-owner if the name and address of such successor in interest is known to the district manager not less than ten (10) days prior to the date of the hearing. Failure of any property-owner to receive any such hearing notice shall not prevent the district from assessing the delinquency and collecting the assessment as set forth in subsections (D) through (F) below.

(C) At the hearing, the board of directors shall hear any objections or protests of property-owners liable to be assessed for delinquent fees or charges. The board of directors may make revisions or corrections to the report as it deems appropriate, after which, by resolution, the report shall be confirmed.

(D) The delinquent fees and charges set forth in the report as confirmed shall constitute special assessments against the premises listed in the report and are a lien on said premises for the amount of the delinquent fees and charges, together with any associated penalties and/or interest thereon.

(E) A certified copy of the confirmed report shall be filed with the Santa Clara County Assessor's Office for the amounts of the respective assessments against the respective premises as they appear on the current assessment roll. The lien created attaches upon recordation, in the Office of the County Clerk-Recorder.

(F) The assessment may be collected at the same time and in the same manner as ordinary ad valorem property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for those taxes.

Reference: Section 5473, Health and Safety Code.

10.160 Collection of Delinquent Fees and Charges. Delinquent fees and charges, together with any associated penalties and/or interest thereon, may be collected pursuant to Section 10.150 of

this ordinance or pursuant to the procedure as set forth in Section 10.170 of this ordinance, or both.

10.170 Lien for Delinquent Charges and Penalties. Delinquent charges and all penalties thereon, when recorded, shall constitute a lien upon the real property served and such lien shall continue until the charge and all penalties thereon are fully paid or the property is sold therefor. Any such lien shall have the same force, effect, priority and duration as to the property described as would the lien of an abstract of a judgment against the property-owner at the time such list is recorded and may be enforced in like manner.

10.180 Procedure for Claiming Lien. At least once annually, the district manager shall compile a list of all property-owners whose fees or other charges are delinquent. All such property-owners shall be notified of the date and time at which the board of directors shall hear evidence as to whether or not the delinquent charges and all penalties thereon should be recorded as a lien upon the real property served or be collected on the tax roll. All such property-owners shall be notified, in writing, at least thirty (30) days before the date on which the board of directors shall determine the matter.

At the hearing, the property-owner or his or her representatives may present evidence as to whether or not the fees or any portion thereof are delinquent and whether or not the fees should be recorded as lien upon the property or be collected on the tax roll.

In the event that the board of directors finds that the delinquent fees and all penalties thereon should be recorded as a lien upon the property served, the district manager shall cause a Claim of Lien to be recorded with the Office of the County Clerk-Recorder with respect to all such affected properties, stating the amount of each charge and the penalty and interest thereon, a description of the real property upon which the lien is attached in the name of West Valley Sanitation District.

10.190 Enforcement of Lien. As a separate, distinct, and cumulative remedy for the collection of charges and penalties thereon, the district counsel may bring an action in the name of the district to enforce the lien of the charges and penalties and interest.

10.200 Discharge of Lien. Property may be discharged from the lien within one (1) year from the date of recording by the payment of all delinquent charges.

10.210 Relief from Charges, Fees or Levies. If the board finds that a charge, fee or levy is unjust or inequitable because of special circumstances, it may, upon its own motion or written application of a property-owner or occupant of a premises, fix a fair and equitable charge, fee or levy.

9. Amendment: Chapter 11 of the District's Ordinance Code is hereby amended to read as follows:

11.010 Giving Notice Where not Otherwise Provided. Whenever this code requires the giving of notice and the manner of giving the notice is not otherwise specified, the notice shall be in writing. If a right may be exercised or an act is to be done, the notice shall be given at least ten (10) days prior to the time the right is to be exercised or an act is to be done.

11.020 Method of Service. Whenever this code requires the giving of a notice and the manner of giving notice is not otherwise specified, notice shall be served on the person responsible by certified mail with postage prepaid, by first class mail, or by personal delivery. If a notice sent by certified mail is returned unclaimed, service by first-class mail shall nevertheless be effective if that mail is not returned.

(A) The mail shall be addressed to such person to be notified at his or her last known business or residence address as the same that appears in the public records, or other records pertaining to the matter to which such notice is directed. Service by United States mail shall be deemed to have been completed at the time of deposit in the United States Postal Service.

(B) Failure to receive any notice specified in this chapter does not affect the validity of proceedings conducted hereunder.

11.030 Computation of Time. The time in which any action provided by this code is to be done is computed by excluding the first day, and including the last, unless the last day is a holiday, then it is also excluded.

Reference: Section 12, Code of Civil Procedure, and Section 10, Civil Code.

11.040 Appeal of Administrative Action. A person aggrieved by an administrative action taken by any officer or employee of the district may under this code appeal from the action to the board of directors. The time and manner of appeal is prescribed by Section 11.050 and 11.060.

11.050 Procedure for Taking Appeal. Wherever this code provides that a decision or order may be appealed and the procedure for taking the appeal is not specified, the person appealing shall file a written notice of appeal with the secretary of the board of directors within thirty (30) days of the action appealed from.

11.060 Form of Notice of Appeal and Hearing. Upon receiving a notice of appeal, the secretary of the board of directors shall set the matter for a hearing at a regular meeting of the board of directors and shall give the person appealing written notice of the time and place of hearing at least ten (10) days before the hearing. The board of directors shall hold the hearing within sixty (60) days of the date of the notice of appeal is filed. This time may be extended by agreement between the appealing party and the board of directors.

11.070 Board Decision Final. The decision of the board of directors after the appellant has had an opportunity to be heard is final and conclusive.

11.080 Definitions.

(A) "Decision": as used in this chapter, "decision" means a final decision as described in Chapter 11 of this ordinance code which is subject to review pursuant to Code of Civil Procedure Section 1094.5, suspending, demoting, or dismissing an officer or employee, revoking or denying an application for a permit, license, or other entitlement, or denying an application for any retirement benefit or allowance.

(B) "Party" or "petitioner": as used in this chapter, the terms "party" or "petitioner, " means an officer or employee who has been suspended or demoted or dismissed; a person whose permit, license, or other entitlement has been revoked or suspended, or whose application for a permit, license, or other entitlement has been denied; or a person whose application for a retirement benefit or allowance has been denied.

11.090 Time Limit for Seeking Judicial Review of District Determinations. Judicial review of any district determination shall be petitioned, within ninety (90) days following the date on which the district's decision becomes final, for writ of mandate pursuant to Code of Civil Procedure Section 1094.5.

11.100 Notice of Final Decision. Upon issuing its decision, the district shall mail to the party, written notice to the party that the time within which judicial review may be sought is governed by this chapter and Code of Civil Procedure Section 1094.6.

11.110 Request for and Preparation of Administrative Record. The petitioner may file a request for preparation of the administrative record. Any such request must be in writing and must be made within ten (10) days after the date the decision becomes final.

The district shall prepare the complete record of the proceedings and shall deliver it to the petitioner within ninety (90) days after receipt of the written request. Such record shall include the transcript of the proceedings, any pleadings, all notices and orders, any proposed decision, the final decision, all admitted exhibits, all rejected exhibits in the district's possession, all written evidence, and any other papers in the case.

The district shall charge its actual costs for transcribing or otherwise preparing the record to the petitioner. The district may require the petitioner to pay a sufficient advance deposit to be applied towards the cost of preparation of the administrative record.

11.120 Extension of Time Upon Delivery of Administrative Record. If the petitioner files a request as described in Section 11.100 herein, the time within which a petition pursuant to Code of Civil Procedure Section 1094.5 may be filed shall be extended to no later than the 30th day following the earlier of either the date on which the administrative record is either personally delivered or mailed to the petitioner or his/her attorney.

10. Amendment: Chapter 12, Section 12.010 of the District's Ordinance Code is hereby amended to read as follows:

12.010 Correction of Violations; Collection of Costs; Notice; Legal and Injunctive Relief.

(A) When a defect or hazardous condition in the district's sanitary sewer system results from a violation of this code, any other applicable law, or any rule, regulation or order, issued or promulgated pursuant thereto, the district may require that the person responsible for said defect or hazardous condition correct it at his sole expense.

(B) If said person does not correct the defect or hazardous condition within ten (10) days after written notice to do so, the district shall have the right to correct the defect. The requirement of said written notice is not applicable to instances where the district manager determines that the public health and safety requires immediate correction by the district of a defect or hazardous condition.

(C) The cost of any correction made by the district pursuant to this section may be added to the sewer service charge of the person owning the land upon which the violation occurred and may be collected in the same manner as are other sewer service charges.

(D) In order to collect the costs of correction by the district as a sewer service charge, the district shall give written notice to said property-owner which sets forth the following:

(1) The charges to be imposed as well as the basis thereof.

(2) A description of the premises subject to said charges, which description may be by reference to a plat or diagram on file in the office of the secretary of the district, or to maps prepared in accordance with Section 327, Revenue and Taxation Code, and on file in the Santa Clara County Office of the Assessor.

(3) If the charges are not remitted to the district in full within forty (40) days of the date of the notice, they may be collected in the same manner as are other sewer service rates pursuant to Section 10.160.

(4) Said method of collection is in addition to any other method prescribed by law including an action at law brought in the name of the district in any court of competent jurisdiction.

(5) The district may also petition the Superior Court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, restraining any person from the continued violation of the code or any other applicable law.

11. Amendment: Chapter 13 of the District's Ordinance Code is hereby amended to read as follows:

13.010 Right of Entry for Inspection.

(A) Whenever the district determines it is necessary to make an inspection to enforce this code, or whenever there is reasonable cause to believe there exists a code violation in any building, or upon any premises within the jurisdiction of the district, or whenever it is necessary to inspect, observe, measure, compute the volume of sanitary sewage and industrial wastes, and take samples of such sewage and wastes being discharged from the premises into the district's sanitary sewer system for biochemical oxygen demand, suspended solids, and ammonia analysis; and to ascertain any other facts or information necessary to determine the applicability of any sewer service charges to such premises, or the amount of such charges, any authorized official of the district may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same, or to perform any duty imposed upon him by this code; provided, that except in emergency situations or when consent of the property-owner and/or occupant to the inspection has been otherwise obtained, he shall give the property-owner and/or occupant, if they can be located after reasonable effort, twenty-four (24) hours' written notice of the authorized district official's intention to inspect. The notice transmitted to the property-owner and/or occupant shall state that the property-owner has the right to refuse entry.

(B) In the event the district sought prior consent to inspect the property but the property-owner has refused entry, the district may request an inspection warrant from a duly authorized judge pursuant to California Code of Civil Procedure section 1822.50 et seq. Any person who willfully refuses to permit an inspection lawfully authorized by an inspection warrant is guilty of a misdemeanor.

(C) Subject to the limitations of the United States Constitution and the California Constitution, where the property-owner has no reasonable expectation of privacy in a portion of their private property, the district has a right to perform an inspection of that portion of the property without obtaining consent or an inspection warrant.

13.020 Criminal Prosecution.

(A) Violation a Misdemeanor. Any person who willfully or negligently violates any provision of this code, or of any orders or permits issued hereunder, shall upon conviction, be guilty of a misdemeanor punishable by a fine not exceeding one thousand dollars (\$1,000) per violation per day, or by imprisonment for a term not exceeding thirty (30) days, or by both such fine and imprisonment. Such violation may also be redressed by civil action.

(B) Falsifying Information. Any person who knowingly makes any false statements, representations, or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this code, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this code shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000) per violation per day or imprisonment for not more than one (1) year, or by both such fine and imprisonment.

13.030 Each Day a Separate Offense. Such person, firm, or corporation shall be deemed to be guilty of a separate offense for each and every day during any portion of which a provision of this code, or any such rule, regulation or order, is committed, continued or permitted by such person, firm or corporation, and shall be punishable as hereinabove provided.

13.040 Abatement of Violation as a Public Nuisance. Without limitation to any of the foregoing, continued occupation of a building, or continued operation of an industrial facility in violation of this code, or any rule or regulation of the district, is a public nuisance. The discharge of unscreened garbage, fruit, vegetable, animal or other solid industrial wastes into any part of the district's sanitary sewer system, in violation of any provision of this code, is hereby declared to be a public nuisance. Occupancy of a premises, while disconnected from the district's sanitary sewer system, is a public nuisance. The district may bring proceedings to abate such public nuisances specified above during the period of violation.

13.050 Notice of Violation. Without limitation to any of the foregoing, the district manager may serve a person who violates this code or other rule or regulation of the district with written notice of the violation. The notice shall be in accordance with Section 14.060. Upon receipt of the notice, the person shall cease violation and correct the defect within the time stated in the notice.

13.060 Disconnection and Reconnection.

(A) The board of directors may order disconnection of a premises connected to the district's sanitary sewer system if it finds disconnection is necessary to enforce this code or rules and regulations of the district.

(B) Reconnection. Before a premises may be reconnected to the district's sanitary sewer system, the user shall deposit with the district an amount estimated by the district manager to be the cost of disconnection and reconnection of the premises. After payment of the cost of disconnection and reconnection, the district manager shall refund the difference between the deposit and the cost if there is an excess deposit.

12. Amendment: Chapter 14 of the District's Ordinance Code is hereby amended to read as follows:

14.010 Purpose of Chapter. The purpose of Chapter 14 is to provide an administrative enforcement mechanism that is in addition to all other legal remedies, criminal or civil, that may be pursued by the district to address any violation of its ordinances, including all existing ordinances and any future ordinances adopted after the effective date of this ordinance. Use of this chapter is at the sole discretion of the district.

14.020 Repeal by Ord. 149, April 10, 2019.

14.030 Administrative Citation.

(A) Whenever an enforcement officer determines that a violation has occurred, or is being maintained, the enforcement officer shall have the authority to issue administrative citations to any person responsible.

(B) If the violation does not create an immediate danger to health or safety, the enforcement officer must first give the person responsible a reasonable period of time to correct or otherwise remedy the violation prior to the issuance of an administrative citation, as further provided in Section 14.060(B).

(C) If a citation is to be issued, each administrative citation shall contain the following information:

- (1) The date of the violation;
- (2) The address or a definite description of the location where the violation occurred;
- (3) The ordinance section violated and a description of the violation;
- (4) The amount of the fine for the violation;

(5) If applicable, the action requested to correct or otherwise remedy the violation and the reasonable time allowed for such correction or abatement, as provided in Section 14.060;

(6) A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid;

(7) A description of the administrative citation review process, including the time within which the administrative citation may be appealed and the place from which a request for hearing form to appeal the administrative citation may be obtained; and

(8) The name and signature of the citing enforcement officer.

(D) The administrative citation shall be served in accordance with Section 14.120.

14.040 Amount of Fines, Penalties, and Late Charges. The fines, penalties, and late charges imposed under this chapter shall be set by a resolution of the district board of directors.

14.050 Payment and Collection of Fines and Costs.

(A) The person responsible shall pay the administrative citation fine to the district within thirty (30) calendar days from the date of service of the administrative citation.

(B) Payment of a fine under this ordinance shall not excuse or discharge any continuation or repeated occurrence of the violation(s) that is/are the subject of the administrative citation.

(C) Any administrative fine imposed under this chapter is a debt owed to the district. The amount of any unpaid fine may be collected in any manner provided by law for the collection of debts, including, but not limited to, means available for the collection of judgments, liens, special assessments, and actions for recovery of money.

(D) The district may also recover its collection costs, including, but not limited to, administrative costs and attorneys' fees generated from its attempt to collect any past due administrative fine, or late payment charge. Such collection costs shall be in addition to any penalties or late charges imposed pursuant to an ordinance or resolution of the district.

14.060 Time Allowed for Correction.

(A) Where applicable, the person responsible shall have a reasonable time to correct or otherwise remedy the violation. The reasonable time shall be based upon the circumstances of the particular violation, taking into consideration the means required to abate the violation, the

period of time that the violation has existed, and the potential threat to public health and safety created by the violation.

(B) If the violation does not create an immediate danger to health or safety, the person responsible shall have a reasonable time in which to correct or otherwise remedy the violation. Prior to the issuance of an administrative citation, the enforcement officer shall issue a “Notice of Violation and Order to Correct” to the person responsible, in accordance with Section 14.120. The “Notice of Violation and Order to Correct” shall contain the following information:

- (1) The date of the violation;
- (2) The address or a definite description of the location where the violation occurred;
- (3) The Ordinance section violated and a description of the violation;
- (4) The means of correcting or remedying the violation;
- (5) The reasonable time allowed for correcting or remedying the violation;
- (6) A warning that failure to correct or remedy the violation within the time allowed will result in the issuance of an administrative citation, including the amount of the potential fine assessed; and
- (7) The name and signature of the enforcement officer.

(C) The determination of timely compliance shall be made by the enforcement officer, hearing officer, or other authorized district official.

14.070 Appeal of Citation.

(A) The person responsible may appeal the administrative citation by completing a request for hearing form and returning it to the district within fifteen (15) calendar days from the issue date of the administrative citation, together with an appeal fee. A request for hearing form may be obtained from the location specified on the administrative citation.

(B) The amount of the appeal fee depends upon the amount of the administrative fine assessed. If the amount of the administrative fine is less than five hundred dollars (\$500), then the appeal fee shall be one hundred dollars (\$100). If the amount of the administrative fine is greater than or equal to five hundred dollars (\$500), then the appeal fee shall be five hundred dollars (\$500). The appeal fee shall constitute a credit towards the total amount due, as determined by the hearing officer.

14.080 Hearing Officer. The district manager shall designate a hearing officer to conduct the administrative citation hearing. A hearing officer may be an employee of the district or non-employee qualified to hear such matters, and selected in a manner that avoids the potential for bias. A hearing officer's continued employment, performance evaluation, compensation and benefits shall not, directly or indirectly, be linked to the number or amount of fines upheld by the hearing officer.

14.090 Hearing Procedure.

(A) No hearing to appeal an administrative citation before a hearing officer shall be held unless the appropriate appeal fee has been deposited in advance in accordance with Section 14.070.

(B) A hearing shall be set for a date that is not less than fifteen (15) calendar days and not more than sixty (60) calendar days from the date that the request for hearing is filed with the district.

(C) A person responsible who has complied with subsection (1) shall be notified of the time and location for the hearing at least ten (10) calendar days prior to the date of the hearing, in accordance with Section 14.120. The location of the hearing will be at the district's office, located at 100 East Sunnyside Avenue, Campbell, California 95008.

(D) If the enforcement officer submits an additional written report concerning the administrative citation to the hearing officer for consideration at the hearing, then a copy of this report shall also be served on the person responsible who has complied with subsection (A) at least five (5) calendar days prior to the date of the hearing, in accordance with section 14.120.

(E) At the hearing, the person responsible who has appealed the administrative citation in compliance with Section 14.070 shall be given the opportunity to testify and to present evidence concerning the administrative citation.

(F) The failure of any person responsible who has filed an appeal in accordance with Section 14.070 to appear at the administrative citation hearing shall constitute a forfeiture of the fine and a failure to exhaust their administrative remedies.

(G) The administrative citation and any additional report submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents.

(H) Evidence offered during a hearing must be credible and relevant in the estimation of the hearing officer, but formal rules governing the presentation and consideration of evidence shall not apply.

(I) The hearing officer shall conduct the hearing, order the presentation of evidence, and make any rulings necessary to address procedural issues presented during the course of the hearing.

(J) After receiving all of the evidence presented, the hearing officer may then deliberate and consider what action, if any, should be taken. In determining the amount of the administrative fine, the hearing officer 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 person responsible. The hearing officer may also continue the hearing and request additional information from the enforcement officer or the person responsible prior to issuing a written decision as set forth in Section 14.100.

14.100 Decision of Hearing Officer.

(A) Within ten (10) calendar days following conclusion of the hearing, the hearing officer shall issue a written decision to uphold, modify or overturn the administrative citation and shall list in the decision the reasons for that decision. The decision of the hearing officer shall be final.

(B) If the hearing officer determines that the administrative citation should be upheld, then the district shall retain the appeal fee deposited, and order payment of the remainder of the administrative fine due within thirty (30) calendar days. The amount of any unpaid fine will be collected in accordance with Section 14.050(C).

(C) If the hearing officer determines that the administrative citation should be modified or overturned, then the district shall promptly refund any amount of the deposited fine not upheld.

(D) The person responsible shall be served with a copy of the hearing officer's written decision in accordance with Section 14.120.

14.110 Right to Judicial Review.

(A) Any person aggrieved by a decision of the hearing officer may obtain judicial review of the decision by filing an appeal with the superior court in Santa Clara County in accordance with the time lines and provisions set forth in Government Code Section 53069.4(b)(1).

(B) Where the violation charged in the administrative citation is designated as a public nuisance, the prevailing party shall be entitled to recover reasonable attorneys' fees, court costs, and other expenses generated from the prevailing party's defense or prosecution of the appeal. In no action or proceeding shall an award of attorneys' fees to a prevailing party pursuant to this Section exceed the amount of reasonable attorneys' fees incurred by the district in its defense of the appeal.

(C) Where the violation charged in the administrative citation is not designated as a public nuisance, the district shall be entitled to recover reasonable attorneys' fees, court costs, and other expenses generated from its defense of the appeal, if the district is the prevailing party.

14.120 Notices.

(A) The administrative citation and all notices required to be given by this chapter may be served on the person responsible via certified mail, postage prepaid; first class mail; or by personal delivery. If an administrative citation or notice sent by certified mail is returned unclaimed, service by First-Class mail shall nevertheless be effective if that mail is not returned.

(B) The mail shall be addressed to such person to be notified at his or her last known business or residence address as the same that appears in the public records, or other records pertaining to the matter to which such notice is directed. Service by mail shall be deemed to have been completed at the time of deposit with the United States Postal Service.

(C) Failure to receive any notice specified in this chapter does not affect the validity of proceedings conducted hereunder.

14.130 Remedies Cumulative. The remedies provided for in this chapter shall be cumulative and not exclusive, and shall be in addition to any and all other remedies available to the district.

14.140 Severability. The provisions of this chapter are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall

not affect or impair any of the remaining provisions, clauses, sentences, words or parts thereof of this chapter or their applicability to other persons or circumstances.

13. Publication

This ordinance shall take effect and be in force thirty (30) days after its enactment, and before expiration of fifteen (15) days after its enactment it shall be published once with the names of the members of the Board of Directors voting for and against the same in at least one newspaper of general circulation published and circulated in the District.

INTRODUCED at a regular meeting of the Board of Directors of West Valley Sanitation District on the 13th day of March, 2019.

ENACTED at a regular meeting of the Board of Directors on 10th day of April, 2019, by the following vote:

AYES: Directors Cappello, Leonardis, Resnikoff, Turner, Wasserman

NOES: Directors

ABSENT: Directors

ABSTAIN: Directors

S/E. Manny Cappello Chairperson of the Board

S/Lesha Luu, Secretary

Published: April 17, 2019