

CHAPTER 6. DESIGN AND CONSTRUCTION OF SEWERS

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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 Ordinances, rules and regulations of the cities within the District, County and State.

Source: Section 4762, Health and Safety Code.

(Adopted by Ord. 46, July 23, 1975; Readopted by Ord. 130, October 27, 1999; Amended by Ord. 145, November 12, 2014; Amended by Ord. 146, June 14, 2017)

6.020 Design of Sewers.

(A) The design, construction, and modification or repair of any new or existing public and private sewers within the District shall be in accordance with the requirements of the Ordinance, 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. The District Manager, at his or her discretion, may waive certain requirements of the District Design Standards or may require more stringent standards where unusual conditions are encountered. The District shall document its reasons supporting a waiver of requirements or the addition of more stringent requirements and include this documentation as an attachment to the Permit issued pursuant to Sections 9.010 and 9.045.

(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 requirement to replace the Lower Sewer Lateral and include this documentation as an attachment to the Permit issued pursuant to Sections 9.010 and 9.045.

(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 Board 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.

Source: Section 4762.1, Health and Safety Code.

(Adopted by Ord. 10, Aug. 28, 1957; Amended by Ord. 17, Sept. 27, 1961; Amended by Ord. 24, June 8, 1965; Readopted, as modified by Ord. 46, July 23, 1975; Amended by Ord. 145, November 12, 2014; Amended by Ord. 146, June 14, 2017)

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.

Source: Section 4762.1, Health and Safety Code.

(Adopted by Ord. 46, July 23, 1975; Amended by Ord. 60, July 27, 1977; Amended by Ord. 134, October 10, 2007; Amended by Ord. 145, November 12, 2014; Amended by Ord. 146, June 14, 2017)

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 Ordinance, 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 a branch, lateral or main sewer 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 prior to connection of 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 Ordinances, 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. Prior to the issuance of a Permit, 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. Upon the District's review, the permittee shall be responsible for recording the private sewer easement with the County Recorder's Office. (Adopted by Ord. 46, July 23, 1975; Amended by Ord. 60, July 27, 1977; Amended by Ord. 134, October 10, 2007; Amended by Ord. 145, November 12, 2014; Amended by Ord. 146, June 14, 2017)

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 as a result of the possibility that a Sanitary Sewer Overflow may occur on public and private property. It is the purpose of the following Sections 6.060, 6.070, and 6.080 to minimize the risk by requiring, where warranted, the property owner to install and maintain an approved Sewage Backflow Protective Device.

Source: Section 4762.1, Health and Safety Code.

(Adopted by Ord. 19, Sept. 13, 1962; Readopted, as modified, by Ord. 46, July 23, 1975; Amended by Ord. 60, July 27, 1977; Amended by Ord. 134, October 10, 2007; Amended by Ord. 145, November 12, 2014)

6.060 Backflow Protective Device: Requirement. The owner of any improved real property is required to install and maintain at all times in operable condition, and at that owner's sole cost, a Sewage Backflow Protective Device to protect all structures located on the property. 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 manhole, vertical riser, or similar structure on 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 Sewage Backflow Protective Device on the property is necessary, as described in Section 6.050 of the District's Ordinance Code.

(Adopted by Ord. 19, Sept. 13, 1962; Readopted by Ord. 46, July 23, 1975; Amended by Ord. 134, October 10, 2007; Amended by Ord. 145, November 12, 2014; Amended by Ord. 146, June 14, 2017)

6.070 Backflow Protective Device: Installation.

(A) All Sewage Backflow Protective Devices shall be located and installed in the manner, and meet the standards prescribed by the building departments of the cities within the District or the County.

(B) If the property owner is required by Permit to install a Backflow Protective Device, then the property owner has up to 365 calendar days from the date the Permit is issued, or another length of time to be determined by the District Manager, to install the required device. If the property owner receives written notice from the District Manager to install a Backflow Protective Device, the property owner has up to 60 calendar days to install the required device.

(C) The failure to install a Backflow Protective Device within the required timeframe will be considered a Violation as defined in Chapter 14.

(D) The District will not finalize a Permit or issue a clearance letter until a Backflow Protective Device is installed.

(Adopted by Ord. 19, Sept. 13, 1962; Readopted, as modified, by Ord. 46, July 23, 1975; Amended by Ord. 145, November 12, 2014; Amended by Ord. 146, June 14, 2017)

6.080 Backflow Protective Device: Connection Without is Unlawful. It shall be unlawful for the owner of any structure 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.

(Adopted by Ord. 19, Sept. 13, 1962; Readopted, as modified, by Ord. 46, July 23, 1975;

Amended by Ord. 145, November 12, 2014)

6.090 Responsibility for Defects. All Persons performing work on or adjacent to public sewers within the District shall be held strictly responsible for any and all acts of its agents, employees and subcontractors in connection with said work. Said Person, upon being notified in writing by the District Manager of any defects to these public sewers arising from said work or of a violation of the District Ordinance Code, shall take immediate steps to correct such defect or violation. If said Person does not correct such defect or violation after reasonable notice to do so, the District may correct such defect or violation at the said Person's expense.

(Adopted by Ord. 10, Aug. 28, 1957; Readopted, as modified, by Ord. 46, July 23, 1975; Amended by Ord. 145, November 12, 2014; Amended by Ord. 146, June 14, 2017)

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 of and or treatment of root growths that are 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 Sewers is found to be caused by the 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 determined to be required by the District Manager.

(4) The requirement to install a Property Line Cleanout shall be imposed by the District for any work requiring a District Sewer Permit, or when in the District Manager's opinion, the Lower Sewer Lateral has experienced a high frequency or severity of blockages, or when existing Property Line Cleanout is deemed not to conform with District Design Standards. The District Manager has the authority to require any property served by the District to install a Property Line Cleanout when it is determined to be required and will provide written notice to the property owner of this requirement, if not already required as part of other work requiring a District Permit.

(5) If a Property Line Cleanout is determined to be required, the property owner shall obtain a District Permit, determine the location of their property line, and engage the services of a State Licensed Contractor to accomplish said installation in accordance with District Design Standards.

(6) If the property owner is required by a Permit to install a Property Line Cleanout, then the property owner has up to 365 calendar days from the date the Permit is issued, or another length of time to be determined by the District Manager, to install the required cleanout. If the property owner receives written notice from the District Manager to install a Property Line Cleanout, the property owner has up to 60 calendar days to install the required cleanout.

(7) The failure to install a Property Line Cleanout within the required timeframe will

be considered a Violation as defined in Chapter 14.

(8) The District will not finalize a Permit or issue a clearance letter until a Property Line Cleanout is installed.

(9) If an approved Property Line Cleanout has not been installed on the Lower Sewer Lateral or has not been maintained to provide clear and unfettered access for District maintenance staff, the maintenance obligation for the entire Building Sewer shall be the responsibility of the 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 from the Street and proper use of maintenance equipment.

(D) Request for Maintenance by Property Owner: A property owner requesting maintenance of a Building Sewer by the District shall, before requesting such service, attempt to determine the location of the problem and whether a Property Line Cleanout exists. If the problem is located in the part of the Building Sewer that the property owner is required to maintain, 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 costs and 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.

(Adopted by Ord. 102, March 8, 1989; Amended by Ord. 134, October 10, 2007; Amended by Ord. 145, November 12, 2014; Amended by Ord. 146, June 14, 2017)

CHAPTER 7. USE OF PUBLIC SEWERS

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7.010 Purpose. The purpose of this Chapter is to:

(A) Provide for and regulate the disposal of Sanitary Sewage into the Sanitary Sewer System of the District in such manner and to such extent as is reasonably necessary to maintain and increase the ability of such system to handle and dispose of Sanitary Sewage.

(B) Provide for and regulate the disposal of Industrial Wastes into the Sanitary Sewer System of the District in such manner and to such extent as may be reasonably necessary to maintain and increase the ability of such system to handle and dispose of Industrial Wastes without decreasing the ability of said system to handle and dispose of all Sanitary Sewage.

(C) Prevent the introduction of pollutants into the Sanitary Sewer System which will pass through the treatment works of the San Jose/Santa Clara Water Pollution Control Plant or otherwise be incompatible with such works or interfere with the ability of the Plant to treat, discharge, and recycle wastewater, or to use or dispose of plant biosolids.

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

(E) Protect the physical structure of the 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 the San Francisco Bay.

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

7.020 Annexation Required For Connection of Property Outside District. Property outside the District may not be connected to a District Sewer, directly or indirectly, unless the property served is annexed to the District.

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

7.030 Limitations on Point of Discharge. No Person shall discharge any substances directly into a manhole or other opening in a District Sewer other than through District Manager approved Sewer Connection.

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

7.040 Discharge Into Storm Drain Prohibited. It shall be unlawful to discharge any sewage, Industrial Waste, or other polluted waters into any storm drain or natural outlet or channel without a valid National Pollutant Discharge Elimination System (NPDES) Permit.

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

7.050 Discharge Into Sanitary Sewer System Prohibited. It shall be unlawful for any person to connect to, or to discharge any sewage, Industrial Waste, or other polluted waters into any Sanitary Sewer System without a valid Sewer Connection Permit and/or Wastewater Discharge Permit issued by the District pursuant to this Ordinance Code.

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

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 Sanitary Sewer System, except at a site specifically designated in a Wastewater Discharge Permit issued pursuant to this Chapter.

(Adopted by Ord. 145, November 12, 2014)

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 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 Plant to minimize damage to the Sanitary Sewer System, Plant, treatment processes, and the receiving waters. 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 Plant will not relieve Industrial Users of notification requirements under any other federal, state, or local law, nor of liability for any expense, loss, or damage to the Sanitary Sewer System, Plant or treatment process or receiving waters or for any fines or penalties imposed on the District or the Plant on account thereof under applicable provisions of state or federal law.

(F) All permitted facilities must maintain a spill control plan for protection against Accidental Discharges, including but not limited to, berming of chemicals and waste materials. The review of such plans and procedures shall not relieve the Industrial User from the responsibility of modifying the facility as necessary to meet the requirements of the District Ordinance Code or other state or federal regulations.

(G) This plan must be reviewed and revised as needed within thirty (30) days after an Accidental Discharge has occurred or as required by the District Manager.

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

7.080 Pretreatment by Owner. Each Owner of 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 characteristics, contents, or rate of discharge of waters or wastes being deposited in the Sanitary Sewer System, to prevent damage to or Interference with the Sanitary Sewer System.

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

7.090 Monitoring Facilities.

(A) The District Manager may require any Discharger to the Sanitary Sewer System to construct, at the Discharger's own expense and at an approved location, monitoring facilities to allow inspection, sampling, and flow measurement of the Building Sewer or internal drainage systems.

(B) The monitoring facilities, sampling, and measurement equipment and access thereto shall be maintained at all times in a safe and proper operating condition at the expense of Discharger.

(C) Any required monitoring facilities shall be specified in the Wastewater Discharge Permit issued pursuant to this Chapter.

(D) Dischargers shall retain sufficient Wastewater in their sample box at all times to allow sample collection representative of the last Wastewater discharge.

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

7.100 Storm and Other Waters.

(A) No Person shall discharge, cause, allow or permit any storm water, surface water, groundwater, subsurface drainage or roof water to be discharged into the Sanitary Sewer System or any part thereof.

(B) At the District Manager's discretion, a Wastewater Discharge Permit for the discharge of groundwater, subsurface drainage, surface water, roof water, or Storm Water may be issued in special circumstances if there is no reasonable alternative method for disposal of such water.

(C) If permitted, discharge of groundwater, subsurface drainage, surface water, roof water, or Storm Water shall be subject to all applicable requirements of this Chapter, including but not limited to the payment of applicable permit fees and such terms and conditions as the District may impose in the Wastewater Discharge Permit.

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

7.110 Obstructing or Injurious Substances. No Person shall discharge, cause, allow, or permit to be discharged, thrown, or deposited into the Sanitary Sewer System or any part thereof, or into any plumbing fixture or Private Sewer or drain connected either directly or indirectly to the Sanitary Sewer System, any substance of any kind whatsoever tending to obstruct or injure the Sanitary Sewer System or to cause a nuisance or hazard, or which will in any manner interfere with the proper operation or maintenance of the Sanitary Sewer System.

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

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, or 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 Centigrade (60° C) using test methods specified in 40 CFR 261.21.

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

7.130 Hot Substances. No Person shall discharge, cause, allow, or permit to be discharged into the Sanitary Sewer System or any part thereof, any liquid, solid, vapor, gas, or thing having or developing a temperature of one hundred fifty degrees Fahrenheit (150° F) or more, or which may cause the temperature at the San Jose/Santa Clara Water Pollution Control Plant to exceed one hundred and four degrees Fahrenheit (104° F).

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

7.140 Grease, Oil and Fats.

(A) No Person shall discharge, cause, allow or permit to be discharged, into the Sanitary Sewer System any liquid or other waste containing Grease in excess of one hundred fifty parts per million (150 ppm) by weight.

(B) No Person shall discharge, cause, allow, or permit any grease discharge from a Food Service Establishment into the Sanitary Sewer System, unless such discharge has first been processed through an approved Grease Control Device.

(C) No Person shall discharge, cause, allow, or permit to be discharged any Yellow Grease, or any waste or material mixed with Yellow Grease, into the Sanitary Sewer System from a Food Service Establishment. No Yellow Grease from a Food Service Establishment shall be mixed with Grease Trap or Grease Interceptor waste.

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

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, or any heavy solid or viscous substance capable of causing obstruction to the flow in the Sanitary Sewer System, or any part thereof, or which would interfere with the proper operation of the San Jose/Santa Clara Water Pollution Control Plant, or the treatment of Sanitary Sewage or Industrial Wastes.

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

7.160 Corrosive Matter. No Person shall discharge, cause, allow or permit to be discharged, into the Sanitary Sewer System, or any part thereof, any liquid, solid, vapor, gas or thing having a "pH" lower than six (6.0) 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 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.

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

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

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

7.180 Interfering Substances.

(A) No person shall discharge, or cause, allow or permit to be discharged into the Sanitary Sewer System or any part thereof, any Industrial Waste containing any of the following toxic substances exceeding the concentrations set forth below.

<u>Toxic Substances</u>	<u>Standard Discharger</u>		<u>Low Flow Discharger</u>	
	<u>Maximum Allowable</u>		<u>Maximum Allowable</u>	
	<u>Concentrations</u>		<u>Concentrations</u>	
Antimony	5.0	mg/l	5.0	mg/l
Arsenic	1.0	mg/l	1.0	mg/l
Beryllium	.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 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 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.

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

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, or to meet local limits or achieve compliance with a discharge limitation, unless expressly authorized by an applicable Pretreatment Standard or Requirement.

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

7.200 Copper-Based Chemical Compounds. No Person shall discharge, or cause, allow or suffer to be discharged, any chemical compound containing greater than five (5) percent copper by weight, to control roots or for any other purpose, into any Sanitary Sewer System or any part thereof.

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

7.210 Suspended Solids; Dissolved Matter. No Person shall discharge, cause, allow, or permit to be discharged into the Sanitary Sewer System or any part thereof, any liquid containing Suspended Solids or dissolved matter of such character and quantity that unusual attention or expense is

required to handle, process or treat such matter at the San Jose/Santa Clara Water Pollution Control Plant.

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

7.220 Noxious or Malodorous Matter. No person shall discharge, or cause, allow or permit to be discharged into the Sanitary Sewer System or any part thereof, any solid, liquid, vapor, gas, or thing which is so malodorous or noxious that their discharge into the Sanitary Sewer System would cause a public nuisance.

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

7.230 Radioactive Matter. No Person shall discharge, cause, allow, or permit to be discharged, any radioactive waste into the Sewerage system, except that:

(A) Persons authorized to use radioactive materials by the State Department of Health or other governmental agency empowered to regulate the use of radioactive materials may discharge, cause to be discharged, or permit to be discharged such wastes, provided that such wastes are discharged in strict conformance with the California radiation control regulations (California Code of Regulations, Title 17, Chapter 5, Subchapter 4) and federal regulations and recommendations for safe disposal of such wastes; and

(B) The Person so acting does so in compliance with all applicable rules and regulations of all other regulatory agencies having jurisdiction over such discharges.

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

7.240 Colored Matter. No Person shall discharge, or cause, allow or permit to be discharged into the Sanitary Sewer System or any part thereof, any wastewater with objectionable color not removed in the treatment process such as, but not limited to, dye wastes and vegetable tanning solutions.

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

7.250 Garbage.

(A) No person shall discharge, deposit, or throw, or cause, allow or permit to be discharged, deposited, or thrown into the Sanitary Sewer System, or any part thereof, any Garbage, or any fruit, vegetable, animal or other solid material from any food-processing plant or other industrial

facility or retail grocery store, irrespective 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, or any other industrial facility or retail grocery store, any mechanical grinder or waste grinder that is connected directly or indirectly to the Sanitary Sewer System, or any part thereof.

(C) No Person shall discharge, deposit, throw, or cause, allow or permit to be discharged, deposited, or thrown into the Sanitary Sewer System or any part thereof, any Garbage or fruit, vegetable, animal or other solid kitchen waste material resulting from the preparation of any food or drinks, in any dwelling, restaurant, or eating establishment, unless the same shall have first been passed through a mechanical garbage or waste grinder in conformance with the provisions of the California Plumbing and Electrical Code of the general jurisdiction within the District.

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

7.260 Screened Industrial Wastes.

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

(B) The District Manager may authorize, in writing, the discharge into the Sanitary Sewer System of such wastes if they are first passed through screens having larger openings, if the District Manager is satisfied that such larger openings will provide screening efficiency and effectiveness equal 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 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, all in sufficient quantity and of sufficient size and quality to continuously and effectively screen not less than one hundred (100) percent 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 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 to the District Manager a report prepared by a registered professional engineer which shows, to the satisfaction of the District Manager, that the provisions of this section have been complied with, before the Wastewater Discharge Permit is granted.

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

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 or private sewage main or disposal system, shall have a Grease control Device and related plumbing of a size and design approved by the District Manager.

(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 and Electrical Code of the general 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 Electrical Code of the general 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 so installed and connected that it shall be at all times easily accessible 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 on the Discharger, the City may issue an encroachment permit to allow the Grease Control Device to be installed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

(D) Waste 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 sanitary sewer through the Grease Control Device if approved by the District Manager provided, however, that toilets, urinals, wash basins, and other fixtures containing fecal material shall not flow through the Grease Control Device.

(Adopted by Ord. 145, November 12, 2014)

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. No accumulated Grease shall be introduced into any drainage piping or Public or Private Sewer.

(B) Grease Control Devices shall be cleaned on a sufficient frequency to prevent objectionable odors, surcharge of the Grease Control Device, or Interference with the operation of the Sanitary Sewer System.

(1) Grease Traps shall be cleaned at least 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 (25) percent 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 assure that not more than twenty-five (25) percent of the capacity of the Grease Control Device will be filled with Grease or settled solids, and that no objectional odors are created.

(D) All Dischargers shall implement Best Management Practices in their operations to minimize the discharge of Grease to the Sanitary Sewer System.

(E) Dischargers shall maintain records on site for a period of at least 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 Establishment shall maintain records showing that following related to all Grease hauled off site: date and time material removed off site; volume removed; hauler name; truck license number, type of Grease removed, and final destination of material collected.

(F) Abandoned Grease Control Devices or Grease Interceptors shall be emptied and filled as required for abandoned septic tanks by the County of Santa Clara Department of Environmental Health.

(Adopted by Ord. 145, November 12, 2014)

7.290 Prohibition. No Person shall discharge, cause, allow, or permit Fixer Solution to be discharged into the Sanitary Sewer System without prior pretreatment to meet all applicable limits.

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

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 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 in connection with the removal or placement of fillings that contain Dental Amalgam more than three (3) days per calendar year and the system is used exclusively by the following types of dental practices:

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

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

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 the public health or safety, or public or private property, and in this regard sever from the Public Sewer all pertinent Connections thereto. If such endangerment shall be imminent, then the District Manager may act immediately to suspend sewer service without giving advance notice or warning whatsoever to said Person or Persons.

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

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

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

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 or render inaccurate or divert flow from any monitoring device or equipment installed or operated pursuant to this Chapter or of any Permit issued under this Chapter.

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

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

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

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

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 discharge to the Sewer or storm drain, including all discharge connections of roof and surface drains and plumbing fixtures; inspecting, observing, measuring, photographing, sampling, and testing the quality, consistency, and characteristics of Sewage and industrial wastewaters being discharged into any Public Sewer 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 Sanitary Sewer System and has unreasonably refused access to the District or its agents.

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

7.360 Public Nuisance. The discharge of unscreened Garbage, fruit, vegetable, animal or other solid or liquid Industrial Wastes into any part of the Sanitary Sewer System in violation of any provision of this Chapter, is hereby declared to be a public nuisance.

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

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 Sanitary Sewer System file additional periodic discharge reports or a zero discharge report.

(B) The periodic discharge report may be required to include, but need not be 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 Sanitary Sewer System. This report may be required to include, but need not be limited to, nature of process, hours of operation, number of employees, hauling records, or other information that relates to 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 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.

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

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 source of power of the treatment facility is reduced, lost, or fails.

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

7.390 Enforcement. The primary responsibility for enforcement of the provisions of this Chapter shall be vested in the District Manager, or agents of the District as he/she shall designate, provided that field inspectors or 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 Regional Wastewater Facility 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 Chapter in response to any Permit or Code violations. Nothing in this Chapter 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 Chapter or under any law or regulation.

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

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 therefore, 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 or 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 Sanitary Sewer System from any premises for which the Permit has been revoked or wastewater service has been suspended or terminated.

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

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 Owner or tenant of the property upon which the violation occurred, and the District shall have all available remedies for the collection of such costs as it has for the collection of sewer service charges.

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

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 Sanitary Sewer System. There 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 of the discharger 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 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 Ordinance Code.

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

7.430 Mandatory Wastewater Discharge Permits. No Critical User or Significant Industrial User shall connect, discharge, cause, allow, or permit any discharge, into the Sanitary Sewer System except in accordance with a Wastewater Discharge Permit issued by the District Manager.

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

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

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 Ordinance Code and further accompanied by payment of all fees established by the City of San Jose, in connection with 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 Sanitary Sewer System for which a discharge Permit has been issued must apply for a new Permit prior to making a Significant Change in the operations affecting their discharge.

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

7.460 Delinquent Fees

(A) Wastewater Discharge Permit are due ninety (90) days prior to: (a) Commencing discharge to the 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 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 (50) percent of the Permit fee.

(2) Thirty-one (31) to ninety (90) days after the application due date, the penalty shall be one hundred (100) percent of the Permit fee.

(3) Ninety-one (91) days to one (1) year after the application due date, the penalty shall be one thousand (1000) percent 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 Plan 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 Plan 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 Plan no later than three (3) days after the application due date, or

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

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

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).

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

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.

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

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.

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

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 or safety, or public or private property are endangered.

(D) The issuance of the Wastewater Discharge Permit would cause the San Jose/Santa Clara Water Pollution Control Plant to violate any Permit conditions, laws, or regulations of the state and/or federal government.

(E) The applicant has not provided adequate information to establish that its discharge will comply with all requirements of this chapter and with such other terms and conditions as the District Manager may deem necessary to include in the applicant's Wastewater Discharge Permit.

(F) The applicant has not provided plans for sufficient protection from Accidental Discharges to the Sanitary Sewer System.

(G) If the District Manager refuses to issue a Wastewater Discharge Permit, the application fees shall not be returned to the applicant unless the District Manager has ascertained that a Permit is not required to discharge the Wastewater for which the Wastewater Discharge Permit application is made.

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

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 berming of chemicals and waste materials. The review and approval of such plans and operating procedures shall not relieve the User from the responsibility of modifying the facility as necessary to provide the protection necessary to meet the requirements of this Code or other state or federal regulations.

(9) Requirements for notification of Accidental Discharges; and

(10) Requirements for the submission of a Slug Control Plan or specific element thereof.

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

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.

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

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 or safety or for the protection of public or private property, stay the effect of the notice of revocation or termination of service, during the pendency of the appeal.

(C) A request for hearing on a decision to deny a Wastewater Discharge Permit, on the terms or conditions in a Wastewater Discharge Permit, on an amendment to a Wastewater Discharge Permit, shall be filed, in writing, with the District Manager within thirty (30) days after the date the notice of decision is served on the applicant.

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

(E) At the hearing before the District Manager, the applicant shall be given an opportunity to present witnesses and documentary and other evidence.

(F) The hearing will be conducted informally and technical rules of evidence shall not apply. Any and all evidence which the District Manager deems reliable, relevant and not unduly repetitious may be considered.

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

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

(I) Filing of a request for hearing shall not entitle any person to discharge in violation of any of the provisions of this code.

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

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

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 Ordinance 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 Ordinance Code. (Adopted by Ord. 124, September 15, 1996; Amended by Ord. 135, May 28, 2008; Amended by Ord. 145, November 12, 2014)

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

CHAPTER 13 ENFORCEMENT

Sections:

- 13.010 Right of Entry for Inspection.
- 13.020 Criminal Prosecution.
- 13.030 Each Day a Separate Offense.
- 13.040 Abatement of Violation as a Public Nuisance.
- 13.050 Notice of Violation.
- 13.060 Disconnection and Reconnection.

13.010 Right of Entry for Inspection.

(A) Whenever 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 and compute the volume of sanitary sewage and industrial wastes and take samples of such sewage and wastes being discharged from the premises into the 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 and use 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 Ordinance; provided, that except in emergency situations or when consent of the owner and/or occupant to the inspection has been otherwise obtained, he shall give the owner and/or occupant, if they can be located after reasonable effort, 24 hours' written notice of the authorized official's intention to inspect. The notice transmitted to the 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.

(Adopted by Ord. 46, July 23, 1975; Amended by Ord. 55, May 26, 1976; Amended by Ord. 146, June 14, 2017)

13.020 Criminal Prosecution.

(A) Violation a Misdemeanor. Any person who willfully or negligently violates any provision of this Ordinance, 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 Ordinance, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Ordinance 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 year, or by both such fine and imprisonment.

(Adopted by Ord. 10, August 28, 1957; Readopted, as modified, by Ord. 46, July 23, 1975; Amended by Ord. 72, April 8, 1981; Amended by Ord. 146, June 14, 2017)

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 Ordinance, 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.

(Adopted by Ord. 46, July 23, 1975)

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 Ordinance 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 Sanitary Sewer System, in violation of any provision of this Code, is hereby declared to be a public nuisance. Occupancy of a premise, while disconnected from the Sanitary Sewer System, is a public nuisance. The District may bring proceedings to abate such public nuisances specified above during the period of violation.

(Adopted by Ord. 46, July 23, 1975; Readopted by Ord. 76, September 9, 1981; Amended by Ord. 146, June 14, 2017)

13.050 Notice of Violation. Without limitation to any of the foregoing, the District Manager and Engineer may serve a person who violates this Ordinance or other rule or regulation of the District

with written notice of the violation. The notice shall contain the nature of the violation and give a time limit for satisfactory correction which shall not be less than two (2) nor more than seven (7) working days. Upon receipt of the notice, the person shall cease violation and correct the defect within the time stated in the notice.

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

13.060 Disconnection and Reconnection.

(A) The Board of Directors may order disconnection of a premise connected to the Sanitary Sewer System if it finds disconnection is necessary to enforce this Ordinance or rules and regulations of the District.

(B) Reconnection. Before a premise may be reconnected to the Sanitary Sewer System, the user shall deposit with the District an amount estimated by the District Manager and Engineer to be the cost of disconnection and reconnection of the premise. After payment of the cost of disconnection and reconnection, the District Manager and Engineer shall refund the difference between the deposit and the cost if there is an excess deposit.

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

CHAPTER 14 ADMINISTRATIVE ENFORCEMENT

Sections:

- 14.010 Purpose of Chapter.
- 14.020 Definitions.
- 14.030 Administrative Citation.
- 14.040 Amount of Fines, Penalties, and Late Charges.
- 14.050 Payment and Collection of Fines and Costs.
- 14.060 Time Allowed for Correction.
- 14.070 Appeal of Citation.
- 14.080 Hearing Officer.
- 14.090 Hearing Procedure.
- 14.100 Decision of Hearing Officer.
- 14.110 Right to Judicial Review.
- 14.120 Notices.
- 14.130 Remedies Cumulative.
- 14.140 Severability.

14.010 Purpose of Chapter. The purpose of this 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.

(Adopted by Ord. 146, June 14, 2017)

14.020 Definitions. For the purpose of this Chapter:

(A) “Enforcement Officer” shall mean 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.

(B) “Hearing Officer” shall mean 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.

(C) “Person Responsible” shall mean a Person(s), as that term is defined in Chapter 1 of this code, determined by the Enforcement Officer to have violated or is maintaining a violation of any District.

(D) “Violation” shall mean 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.

(Adopted by Ord. 146, June 14, 2017)

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 14.102.

(Adopted by Ord. 146, June, 14, 2017)

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.

(Adopted by Ord. 146, June, 14, 2017)

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.

(Adopted by Ord. 146, June 14, 2017)

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 be allowed not less than two (2) nor more than seven (7) working days 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.

(Adopted by Ord. 146, June 14, 2017)

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 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.

(Adopted by Ord. 146, June 14, 2017)

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.

(Adopted by Ord. 146, June 14, 2017)

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 Sunnyoaks 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.

(Adopted by Ord. 146, June 14, 2017)

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.

(Adopted by Ord. 146, June 14, 2017)

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.

(Adopted by Ord. 146, June 14, 2017)

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 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 in the post office.

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

(Adopted by Ord. 146, June 14, 2017)

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.

(Adopted by Ord. 146, June 14, 2017)

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.

(Adopted by Ord. 146, June 14, 2017)