

**CUPERTINO SANITARY DISTRICT  
SANTA CLARA COUNTY  
CALIFORNIA**

**OPERATIONS CODE**

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As Amended by:

Ordinance 85

Ordinance 93

Ordinance 94

Ordinance 95

Ordinance 96

Ordinance 97

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**CHAPTER I  
GENERAL PROVISIONS**

**1000. TITLE:**

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

**1001. CONTINUATION OF EXISTING LAW:**

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

**1002. PENDING PROCEEDINGS:**

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

**1003. ACTS BY DEPUTY:**

Whenever a power is granted to or a duty is imposed upon a public officer, the power may be exercised, or the duty may be performed by a deputy of such officer or by a person otherwise duly authorized pursuant to law or ordinance unless this Code expressly provides otherwise.

**1004. TENSE:**

The present tense includes the past and future tenses; and the future, the present.

**1005. GENDER:**

The masculine gender includes the feminine and neuter.

**1006. GIVING NOTICE:**

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

**1007. CONSTITUTIONALITY:**

If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining

portions of this Code. The Board hereby declares that it would have passed this Code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional, and if for any reason this Code should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

**1008. REFERENCE APPLIES TO AMENDMENTS:**

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

## **CHAPTER II DEFINITIONS**

### **2000. APPLICATION OF DEFINITIONS.**

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

#### **2000.1. ABBREVIATIONS:**

The following abbreviations are used in this Code:

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

#### **2000.2. ACCIDENTAL DISCHARGE:**

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

#### **2001. ACREAGE:**

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

#### **2001.1. AMALGAM SEPARATOR:**

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

**2001.2. AMALGAM WASTE:**

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

**2002. AMMONIA:**

"Ammonia" means that form of nitrogen which is chemically definable as NH<sub>3</sub>.

**2003. ASSESSOR:**

"Assessor" means the assessor of Santa Clara County, California.

**2004. AUDIT PROTOCOLS:**

"Audit Protocols" means the procedures to be followed in performing flow and pollutant audit studies.

**2005. AVERAGE CONCENTRATION:**

"Average Concentration" means the concentration of a pollutant in an Industrial User's discharge that is calculated by adding the concentrations of the particular pollutant in all Composite Samples taken during a given time period, including but not limited to self monitoring samples, and dividing the total by the number of samples taken.

**2005.1. BATCH DISCHARGE:**

"Batch discharge" means the discharge of wastewater resulting from an intermittent treatment process in which an identified amount of process wastewater is collected, treated to meet discharge standards, and released to the sanitary sewer system.

**2006. BEST MANAGEMENT PRACTICES:**

"Best Management Practices" means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce the introduction of pollutants to the Sanitary Sewer System which have been determined by the District Manager to be cost effective for particular industry groups, business types, or specific industrial processes.

**2007. BIOCHEMICAL OXYGEN DEMAND (BOD):**

"Biochemical Oxygen Demand" means the quantity of oxygen, expressed in parts per million (ppm) by weight, utilized in the biochemical oxidation of organic matter under standard laboratory conditions for five (5) days at a temperature of 20°C.

**2008. BIDDERS LIST:**

"Bidders List" means a list of qualified vendors or contractors maintained by and on file in the office of the District Manager.

**2009. BOARD, DISTRICT BOARD OR SANITARY BOARD:**

"Board", "District Board", or "Sanitary Board" means the governing body of the Cupertino Sanitary District.

**2010. BOARD MEMBER:**

"Board Member" means any member of the governing body of the Cupertino Sanitary District.

**2010.1. CATEGORICAL INDUSTRIAL USER:**

"Categorical Industrial User" or "CIU" means a source performing any categorical process subject to Federal pretreatment standards, as described in 40 CFR 405-471 that has any connection to the sanitary sewer system.

**2010.2. CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD:**

"Categorical pretreatment standard" or "categorical standard" means any regulation containing pollutant discharge limits promulgated by EPA that apply to specific categories of users and which appear in 40 CFR 405-471.

**2011. CLERK:**

"Clerk" means the Clerk of said District.

**2012. CODE OF FEDERAL REGULATIONS:**

"Code of Federal Regulations" or "CFR" refers to the Code of Federal Regulations as published by the Office of the Federal Register National Archives and Records Administration. Whenever a reference is made to any portion of said Code, or to any other federal regulation such reference shall apply to all amendments and additions to such portion of said Code now or hereinafter enacted.

**2013. COMPOSITE SAMPLE:**

"Composite sample" means a sample that accurately represents the average pollutant concentration during a continuous time period.

- A. A flow-proportional or time-proportional sample may be obtained manually or automatically, and discretely or continuously. For manual compositing, at least six (6) individual samples from each sample point shall be combined and mixed to obtain one (1) composite sample; flow-proportion may be obtained either by

varying the time interval between each discrete sample or the volume of each discrete sample.

- B. If multiple batches are discharged over a twenty-four-hour period, then one sample must be collected from each batch discharged in that twenty-four-hour period and composited into a single sample. A single sample from a batch representing one (1) or more production days will be considered a single composite sample.

**2014. CONNECTOR:**

"Connector" means any owner or renter of any premise connected to the sewer system.

**2014.1. CONTINUOUS DISCHARGE:**

"Continuous discharge" means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

**2015. CONTRACTOR:**

"Contractor" means any person who performs the work of installing and connecting main, sub-main, lateral sewers or house sewers to the District sewerage system.

**2016. REPEALED.**

**2017. COUNTY:**

"County" means the County of Santa Clara, California.

**2018. CRITICAL USER:**

"Critical user" means a discharger whose wastewater contains priority pollutants, or who discharges any waste which has the potential to cause interference in concentrations above those allowed in this chapter or who discharges in excess of one hundred thousand (100,000) gpd.

**2018.1.. DENTAL AMALGAM:**

"Dental Amalgam" means an alloy of mercury with another metal, used by dentists to fill cavities in teeth.

**2019. DILUTING WATERS:**

"Diluting waters" means non-contact cooling water, boiler blowdown, domestic sewage, groundwater, storm water, surface drainage, reverse osmosis reject or potable waters which are not part of an industrial process and which do not contain priority pollutants but are combined with industrial wastewater prior to the monitoring point for industrial wastewater discharge. Diluting waters also includes excess water used in rinse tanks when not in production.

**2019.1. DIRECTOR:**

"Director" means the Director of Environmental Services of the City of San Jose.

**2019.2. DISCHARGER:**

"Discharger" means any person discharging wastewater into the sanitary sewer system.

**2020. DISTRICT:**

"District" means the Cupertino Sanitary District, Santa Clara County, California.

**2021. DISTRICT COUNSEL:**

"District Counsel" means the Counsel of said District.

**2022. DISTRICT ENGINEER:**

"District Engineer" means the Engineer of said District.

**2023. DISTRICT MANAGER:**

"District Manager" means the Manager of said District.

**2023.1. DOMESTIC WASTEWATER:**

"Domestic wastewater" means wastewater from private residences and wastewater from other premises resulting from the use of water for personal washing, sanitary purposes or the elimination of human wastes and related matter.

**2023.1.1. ENVIRONMENTAL SERVICES DEPARTMENT:**

"Environmental Services Department" means the Environmental Services Department of the City of San Jose, or any successor department designated by the City of San Jose to which the same functions, duties and responsibilities are assigned as described in this Code.

**2023.2. EXISTING SOURCE:**

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

**2023.3. FIXER SOLUTION:**

"Fixer Solution" means a solution containing silver used in the photographic processing of dental x-rays, x-rays and photographs.

**2023.4. FOOD SERVICE ESTABLISHMENT:**

“Food Service Establishment” means a user that prepares and/or sells food for consumption either on or off the premises or washes utensils or dishes on premises that may contribute Grease to the sewer system, including, but not limited to, restaurants, sandwich shops, delicatessens, bakeries, cafeterias, markets, bed and breakfast inns, motels, hotels, meeting halls, caterers, retirement and nursing homes or pizzerias. The term does not refer to single family units, food stores or establishments that do not prepare food on premises and do not process food in a manner which may contribute Grease to the sewer system. A Food Service Establishment shall be deemed to be contributing Grease to the sanitary sewer system where a Sanitary Sewer Overflow has occurred due to Grease, or there has been a loss of twenty-five percent (25%) or more of sewer line capacity due to Grease, downstream of the Food Service Establishment.

**2024. FRONTAGE:**

"Frontage" means the distance in feet that a parcel of land runs along an existing street.

**2025. GARBAGE:**

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

**2026. GRAB SAMPLE:**

"Grab Sample" means a single discrete sample collected at a particular time and place which represents the composition of the wastestream only at that time and place.

**2027. GREASE:**

"Grease" means liquid or other waste containing floatable and/or dispersed grease, vegetable oil, petroleum oil, non-biodegradable cutting oil, or fat, oil or grease products of animal, vegetable or mineral origin which is detectable and measurable using analytical test procedures established in the United States Code of Federal Regulations, 40 CFR 136.

**2028. GREASE CONTROL DEVICE:**

“Grease Control Device” means a Grease Interceptor, Grease Trap, Mechanical Grease Removal Device or other device approved for use by the Director.

**2029. GREASE INTERCEPTOR:**

“Grease Interceptor” means a large tank installed underground and designed to collect and control solid food wastes and floating-grease from wastewater prior to discharge into the sanitary sewer collection system. Grease Interceptors are normally installed outside the building and use gravity to separate Grease from wastewater as it moves from one compartment of the interceptor to the next.

**2030. GREASE TRAP:**

“Grease Trap” means a device placed under or in close proximity to sinks or other fixtures likely to discharge grease in an attempt to separate, trap and hold oil and grease substances.

**2031. HEALTH DEPARTMENT:**

"Health Department" means State, County or City Health Department.

**2032. INDUSTRIAL USER:**

"Industrial User" means any non-residential user that discharges industrial wastes to the Sanitary Sewer System.

**2033. INDUSTRIAL WASTES:**

"Industrial Wastes" means the wastes from producing, manufacturing and processing operations of every kind and nature.

**2034. INDUSTRIAL WASTES OF EXCESSIVE STRENGTH:**

"Industrial Wastes of Excessive Strength" means industrial wastes discharged from any premises into the sanitary sewer system in any one operating day:

- A. Which have an average daily suspended solids content in excess of 300 parts per million; or
- B. Which have an average daily biochemical oxygen demand in excess of 300 parts per million; or
- C. Which contain in excess of 2,500 pounds of suspended solids; or
- D. Which contain in excess of 2,500 pounds of biochemical oxygen demand.

**2035. INSTALLER:**

"Installer" means any person who installs main or branch sewers within the District for connection to the District sewer system.

**2036. INTERFERENCE:**

- A. "Interference" means a discharge which alone, or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the processes or operation of the Sanitary Sewer System, including the Plant, or causes or significantly contributes to a violation of any requirement of the National Pollutant Discharge Elimination System (NPDES) Permit, which is a permit issued pursuant to Section 402 of the Clean Water Act.

- B. "Interference" also includes prevention of bio-solids use or disposal by the Plant in accordance with published regulations providing guidelines under Section 405 of the Clean Water Act or in regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Water Act, the Toxic Substances Control Act, or more stringent state regulations (including those contained in any state bio-solids management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the Plant.

**2037. LOCAL AGENCY:**

"Local Agency" means City, County or other public entity that has jurisdiction over a street or private property.

**2037.1. LOW FLOW DISCHARGER:**

"Low flow discharger" means an industrial discharger whose average process flow, as shown on the dischargers' application to discharge and as measured as a rolling six-month average, is less than one thousand (1,000) gallons per day.

**2038. MASS AUDIT STUDY:**

"Mass Audit Study" means an investigation of pollution prevention and source reduction measures performed by or for an Industrial user, pursuant to Audit Protocols acceptable to the District, to analyze the volume and concentration of nickel, copper, and/or any other Priority Pollutant identified in regulations adopted by the District in an Industrial User's process streams and discharge, and to identify the Maximum Feasible Reduction Measures available to the Industrial User.

**2039. MAXIMUM ALLOWABLE CONCENTRATION:**

"Mass Allowable Concentration" means the highest permissible concentration or other measure of pollutant magnitude taken at a specific point in time.

**2040. MECHANICAL GREASE REMOVAL DEVICE:**

"Mechanical Grease Removal Device" means a power operated device or combination of devices using electrical equipment to heat, filter, siphon, skim or otherwise separate and retain floating grease and solid food waste prior to the wastewater exiting the trap and entering the sanitary sewer collection system.

**2040.1. NEW SOURCE:**

"New source" means:

- A. Any building, structure, facility or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Clean Water Act that will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

1. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
  2. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  3. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- B. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section A.(2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.
- C. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
1. Begun, or caused to begin, as part of a continuous onsite construction program
    - a. Any placement, assembly or installation of facilities or equipment; or
    - b. Significant site preparation work, including clearing, excavating, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
  2. Entered into a building contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

**2041. OPERATING DAY:**

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

**2041.1. PASS-THROUGH:**

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

**2042. pH:**

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

**2043. PERSON:**

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

**2044. PLANT:**

"Plant" means the San Jose/Santa Clara Water Pollution Control Plant.

**2044.1. PRETREATMENT STANDARD:**

"Pretreatment standard" means prohibited discharge standards, categorical pretreatment standards, and local limits.

**2044.2. PRETREATMENT REQUIREMENTS:**

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

**2045. PRIORITY POLLUTANTS:**

"Priority Pollutants" means all pollutants as defined by the "General Pretreatment Regulations" of the Environmental Protection Agency, found at 40 CFR 401 and 403, as now or hereafter amended.

**2046. PREMISE:**

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

**2047. PRESIDENT:**

"President" means the President of the District.

**2048. PROCESS FLOW:**

"Process Flow" means the daily, twenty four (24) hour, flow of wastewater from any kind or nature of production, manufacturing or processing operation, including industrial and commercial operations where water is used for the removal of any type of waste other than Sanitary Sewage. Process Flow does not include Diluting Waters.

**2049. PURCHASING OFFICER:**

"Purchasing Officer" means the person responsible for purchasing supplies and equipment for the District.

**2050. SANITARY SEWAGE:**

"Sanitary Sewage" means water-carried wastes from residences, business buildings, institutions, and industrial establishments, excluding ground, surface and storm waters, and also excluding industrial wastes as defined in Section 2033 hereof.

**2051. SANITARY SEWER OVERFLOW:**

"Sanitary Sewer Overflow" is any overflow, spill, release, discharge or diversion of untreated or partially treated wastewater from a sanitary sewer system, including overflows or releases that reach waters of the United States, overflows or releases that do not reach waters of the United States, and backups into buildings and/or private property caused by conditions within the publicly owned portion of the sewer system.

**2052. SANITARY SEWER SYSTEM:**

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

**2053. SECRETARY:**

"Secretary" means the Secretary of the District.

**2054. SEWAGE TREATMENT PLANT:**

"Sewage Treatment Plant" means the San Jose/Santa Clara Water Pollution Control Plant.

**2055. SEWERS:**

"Sewers" are defined as follows:

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

**2056. SHALL AND MAY:**

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

**2057. SIGNIFICANT CHANGE:**

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

- A. A flow that exceeds the expected peak flow as shown in the sewage treatment plant connection allocation for the property on which the industrial user is located.
- B. An increase in average process flow of twenty-five (25) percent over the industrial user's average process flow for the dischargers' most immediate preceding compliance period.
- C. Adding or deleting process discharge or sample points.

**2057.1. SIGNIFICANT INDUSTRIAL USER:**

"Significant industrial user" means:

- A. An industrial user that has processes subject to categorical pretreatment standards; or
- B. An industrial user that:

1. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the sanitary system (excluding sanitary, noncontact cooling and boiler blowdown wastewater); or
2. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the plant; or
3. Is designated as such by the Director on the basis that it has a reasonable potential for adversely affecting the plant's operation or for violating any pretreatment standard or requirement.

**2057.2. SIGNIFICANT NONCOMPLIANCE:**

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

- A. Chronic violations of wastewater discharge limits defined here as those in which sixty-six (66) percent or more of all the measurements taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);
- B. Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);
- C. Any other violation of a pretreatment standard or requirement as defined by 40 CFR 403.3 (l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Director determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of the Director personnel or the general public);
- D. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the plant's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within ninety (90) days after the scheduled due date, a compliance schedule milestone contained in a discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

- G. Failure to accurately report noncompliance; and
- H. Any other violation or group of violations, which may include a violation of reasonable control measures, which the Director determines will adversely affect the operation or implementation of the pretreatment program.

**2057.2.1. SLUG LOAD OR SLUG DISCHARGE:**

"Slug Load" or "Slug Discharge" means any discharge of non-routine, episodic nature, including but not limited to, an accidental spill or non-customary batch Discharge, which has a reasonable potential to cause Interference or pass-through or in any other way cause a violation of the provisions of this Chapter or applicable permit conditions.

**2057.3. SOURCE:**

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

**2057.4. STANDARD DISCHARGER:**

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

**2058. STANDARD METHODS:**

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

**2059. STORM WATERS:**

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

**2060. STREET:**

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

**2061. SUSPENDED SOLIDS (SS):**

"Suspended Solids" means solids that either float on the surface of, or are in suspension in, water, sewage, or other liquids and which are removable by laboratory filtering.

**2062. TAX COLLECTOR:**

"Tax Collector" means the tax collector of Santa Clara County, California.

**2063. TOTAL TOXIC ORGANICS:**

"Total Toxic Organics" ("TTOs") are the sum of the concentrations for each of the regulated toxic organic compounds listed at 40 CFR 401.15 and which are found in the discharge at a concentration greater than ten (10) micrograms per liter.

**2064. TREASURER:**

"Treasurer" means the treasurer of Santa Clara County, California.

**2065. TRUCKED OR HAULED WASTE:**

"Trucked or Hauled Waste" means any waste discharged into the sanitary sewer system after being transported by motorized vehicle from the location where the waste was generated or produced.

**2066. UNIT:**

- A. **Unit** means a use, occupancy, or activity established or conducted upon a premises having a connection to the District's sanitary sewer system, either separately or along with other units sharing the same connection.
- B. **Single Family Unit** means a room or group of rooms having living, sleeping, kitchen, and toilet facilities, constituting a separate and independent housekeeping unit designed and intended for occupancy by one or more persons as a place of residence. A Single Family Unit shall be one of the following:
  - 1. A single family detached home;
  - 2. Each separate dwelling unit within a duplex, tri-plex, four-plex apartment project, condominium project, or mobile home park.

**2067. WRITING:**

"Writing" means any form of recorded message capable of comprehension by ordinary visual means.

**2067.1. YELLOW GREASE:**

“Yellow Grease” means Grease which is associated with food preparation or processing, which has not been contaminated with wash water or chemicals, or by being spilled or otherwise fouled.

**2068. ZERO DISCHARGER:**

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

## CHAPTER III ORGANIZATION

### 3000. BOARD MEETINGS:

- A. **Regular Meetings.** The regular meetings of the Board shall be held on the first and third Wednesdays of each and every calendar month at the hour of 8:00 o'clock P.M.
- B. **Meeting Place.** All meetings of the Board shall be held at the Office of the District unless they shall adjourn to or fix another place of meeting in a notice to be given thereof, or unless prevented by flood, fire or other disaster. Said District Office is hereby fixed and established at the Stevens Creek Office Center, 20833 Stevens Creek Boulevard, Suite 104, Cupertino, CA 95014, in said District

### 3001. APPOINTED POSITIONS:

The following positions are hereby established and shall be filled by appointment by the District Board. Appointees shall hold office at the pleasure of the Board and shall receive such compensation, expense reimbursement, and employment benefits as may be established from time to time by the District Board. A specific individual shall be appointed by the Board to fill each position and the same person may be appointed to more than one position. Where the appointee is a member of, or employed by, any partnership, corporation, or other business entity, the appointment shall be deemed to be of the individual person and not the business entity.

- A. **District Manager** – Whose duties shall be as prescribed by the District Board and by this Code. Said duties shall include, but are not limited to, supervision of all administrative matters pertaining to the operation, construction, replacement, maintenance and repair of the sanitary sewer system. The District Manager shall also serve as the Clerk of the District and the Purchasing Officer for the District, and shall perform the duties of said offices as prescribed by the District Board and by this Code or otherwise prescribed by law.
- B. **District Engineer** – Whose duties shall be as prescribed by the District Board and by this Code. Said duties shall include, but are not limited to, the preparation of all plans and specifications for District projects, and the checking of all plans and specifications prepared by an Installer's engineer. The District Engineer shall be a Civil Engineer, registered in accordance with the laws of the State of California.
- C. **District Counsel** – Whose duties shall be as prescribed by the District Board and by this Code.

**3002. FILING OF CLAIMS AND ACTIONS AGAINST THE DISTRICT:**

- A. The filing, processing, and disposition of any claim or demand against the District or against any officer or employee of the District in his official capacity shall be governed by the provisions of the California Government Claims Act, as set forth in Title 1, Division 3.6, Parts 3 and 4 of the California Government Code (commencing with Section 900).
- B. The District Clerk is hereby designated as the authorized representative of the District to accept service of any claim, summons and complaint, subpoena, or other legal document required by law to be served upon the District.

**3003. DISTRICT ZONES:**

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

**CHAPTER IV  
GENERAL REGULATIONS**

**Article 1  
GENERAL REQUIREMENTS AND PROCEDURES**

**4100. CONNECTION TO SEWER:**

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

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

**4101. CLEANOUTS:**

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

**4102. PLUMBING TOO LOW:**

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

**4103. MAINTENANCE OF SIDE SEWERS:**

It shall be the responsibility of the connector to maintain the side sewer, except that if a cleanout is provided pursuant to Section 4101 hereof, the District will maintain the lateral sewer portion of the side sewer. In the event of a stoppage in the lateral sewer which is caused by the connector, said connector shall reimburse the District for expenses incurred in clearing the stoppage.

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

**4104. WORK ABOUT EXISTING SEWERS:**

Any person who undertakes to pave, resurface, grade or do any work on any street that contains District sewers shall not cover up or conceal any manhole, or structure or their covers, and every care must be used to protect them. In the event said work results in damage to, or a change of grade in the area of the manhole or structure, the person performing the work shall be responsible, at his own expense, for repairing or modifying the manhole or structure to meet the new grade. Before any work is performed upon District manholes or structures, the District Manager shall be contacted and all work shall be done under the direction of the District Engineer, and in accordance with District standards.

**4105. SEWAGE BACKFLOW PROTECTIVE DEVICES:**

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

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

**Article 2**  
**PURCHASING OF SUPPLIES AND EQUIPMENT**

**4200. POLICIES AND PROCEDURES:**

The District shall adopt policies and procedures for the purchase of supplies and equipment in accordance with the requirements of Article 7, of Chapter 5, of Part 1, of Division 2, of Title 5 of the Government Code of the State of California, and all such purchases shall be in accordance with such adopted policies.

**4201. AVAILABILITY OF POLICIES AND PROCEDURES:**

The policies and procedures to be adopted by District hereunder shall be by means of a written rule or regulation, copies of which shall be available for public distribution.

**4202. PURCHASES BY DEPARTMENT OF GENERAL SERVICES:**

Notwithstanding the adoption of such policies and procedures by District, the District may request the State Department of General Services to make purchases of materials, equipment or supplies on its behalf in accordance with the provisions of Section 14814 of the Government Code of the State of California.

**Article 3**  
**ANNEXATION AND/OR REORGANIZATION REQUIREMENTS**

**4300.           CONDITIONS:**

The owners of property to be annexed to the District shall, as a condition precedent thereto, pay to the District the following sums:

- A.     **Processing Costs** - The actual cost, where applicable, of preparation of maps, legal descriptions, publication charges, and any and all other direct or indirect charges applicable to the annexation and/or reorganization.
  
- B.     **Acreage Fee** - \$630.00 Per Acre.

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

**4301.           PAYMENT OF PROCESSING COSTS AND FEES:**

An amount equal to the estimated processing costs (4300a) shall be paid to the District at the time a request for annexation is filed with the District Manager. The acreage fee (4300b) shall be paid prior to the time the certificate of completion is recorded by the Local Agency Formation Commission.

**4302.           ADJUSTMENT OF COSTS AND FEES:**

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

**CHAPTER V  
CONSTRUCTION OF SEWERS**

**Article 1  
GENERAL REGULATIONS**

**5100. CONTRACTOR'S REGISTRATION:**

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

**5101. CONTRACTOR'S INSURANCE:**

All such Contractors shall maintain such insurance as will protect them from claims under the Worker's Compensation Act and from any other claims for damages for personal injury, including death, which may arise from their operations in the District, whether such operations be by themselves or any subcontractor or anyone directly or indirectly employed by either of them. Certification of such insurance shall be filed with the Manager and shall be subject to his approval.

The certificate of such insurance provided for shall show extension of coverage to the Cupertino Sanitary District, its officers, agents, and employees and to all other local agencies and others as determined by the Manager.

The Contractor shall take out and maintain during the life of the contract Worker's Compensation Insurance for all persons whom he may employ directly or through subcontractors in carrying out the work.

The Contractor shall procure and maintain Insurance for Public Liability, including accidental death, and Property Damage in amounts not less than \$1,000,000 and shall require all Subcontractors, whether primary or secondary, if any, to procure and maintain Public Liability, including accidental death, and Property Damage Insurance in amounts not less than \$500,000.

Each and every policy of insurance shall be noncancellable for a period of not less than thirty five (35) days after written notice has been received by the Insured.

Such insurance is to be maintained in effect for a minimum of one (1) year after the acceptance of the work.

**5102. FAITHFUL PERFORMANCE AND LABOR AND MATERIAL BONDS:**

All contractors or installers shall file with the District Manager a Faithful Performance Bond and a Labor and Material Bond, each in the amount of 100% of the contract for District

let jobs and 100% of the District Engineer's estimate for installer let contracts. Said Bonds are to be on forms provided or approved by District, and to remain in effect for a minimum of one year after acceptance of work and are not to be cancelled until released by the District.

**5103. EXCAVATION PERMITS AND BONDS THEREFOR:**

No excavation for sewers shall be made in any street within the District until an excavation permit has been issued therefor by the agency or governmental department having jurisdiction thereover and evidence of the issuance thereof submitted to the District Manager. Application for said permit shall be made at the office of the District Manager, and shall be accompanied by a bond in an amount and in the form approved by the District Manager.

**5104. INSPECTIONS:**

No sanitary sewer construction work shall be conducted within the Sanitary District without the presence of the District Engineer or his representative, unless permission has been granted to proceed in his absence.

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

**5105. RESPONSIBILITY FOR DEFECTS:**

All persons performing work connected with this District shall be held strictly responsible for any and all acts of agents, subcontractors, and employees in connection with said work.

Said person, upon being notified in writing by the District Manager of any defects arising from construction or of any violation of the provisions of this Code, shall take immediate steps to correct such defect or violation.

**5106. CONDEMNED WORK:**

In the event any construction, when inspected by the District, is found to be unsatisfactory, the Contractor shall make necessary repairs to place the construction in acceptable condition.

**5107. LIABILITY:**

The District, its officers, agents and employees shall not be liable for personal injury or loss of life or damage to any property consequent to the performance of any of the herein described work by any such contractor or installer. The contractor or installer shall save the District, its officers, agents and employees free and harmless from any such liability imposed by law upon the District, its officers, agents and employees, including all costs, expenses, fees and interest incurred in legal defense of any action to enforce such liability or in

the enforcement of this provision. Contractor or installer shall be solely liable for any defects in the performance of his work, or any failure which may develop therein.

**5108. STANDARD SPECIFICATIONS:**

Minimum standards for the construction of sewers within the District shall be in accordance with the Standard Specifications heretofore or hereafter adopted by the District, copies of which are on file in the District office. The District may permit modifications or may require higher standards where unusual conditions are encountered.

"As-built" drawings in the number required by the District Manager and showing the actual location of all mains, structures, Y's, laterals and cleanouts shall be filed with the District before final acceptance of the work.

**5109. MASTER PLAN:**

The District has adopted an official Master Plan for trunk systems within the District, which is on file in the office of the District Engineer. Said Master Plan is hereby referred to and made a part of this Code by reference.

**5110. COMPLIANCE WITH REGULATIONS:**

Any person constructing a sewer within a street shall comply with all applicable laws pertaining to the installation of sanitary sewers and any related activities such as but not limited to cutting of pavement, opening, barricading, lighting and protection of trenches, backfilling and repaving thereof and shall obtain all permits and pay all fees required by the department having jurisdiction prior to the issuance of a permit by the District. Any person requesting a permit shall also comply with all applicable CEQA laws and guidelines, , and shall make all deposits required and pay all fees which may be established by the District to process applications to comply with said Act.

**Article 2**  
**CONSTRUCTION OF SEWERS BY OTHERS**  
**LATERAL, SUB-MAIN OR MAIN SEWERS**

**5200. AUTHORIZATION:**

Authorization to construct sewers and connect to the sewer system must be obtained from the District.

**5201. REQUEST FOR AUTHORIZATION:**

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

**5202. PLANS, PROFILES AND SPECIFICATIONS:**

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

**5203. PAYMENT OF FEES:**

An installer shall pay in advance all necessary plan checking and inspection fees. The District shall have the right to charge, and the installer shall pay, the necessary administrative and engineering fees incurred by the District for work performed.

**5204. CONTRACT FOR CONSTRUCTION:**

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

**5205. AGREEMENT:**

An installer shall, prior to construction, enter into an agreement with the District covering, but not limited to, the following:

- A. Construction of sewers in accordance with approved Plans, Profiles and Specifications.
- B. Obtaining of necessary rights-of-way and easements, and granting same to District.
- C. Payment for all costs involved, including any and all incidental costs in connection therewith, due to said construction.

- D. Transfer of Title to all sewers and appurtenances to District.
- E. Indemnification of the District per Section 5107.
- F. The furnishing of required Bonds in accordance with Section 5102.
- G. Payment of all fees, including plan checking and inspection.
- H. Such other matters that the District may require.

**5206. LATERAL SEWERS:**

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

**5207. OVERSIZE AND OFF-TRACT SEWERS:**

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

**CHAPTER VI  
USE OF SEWERS**

**Article 1  
PURPOSE**

**6100. PURPOSE:**

The purpose of the Provisions of this Chapter is to:

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

**Article 2**  
**SEWER USE REGULATIONS**

**6200.           LIMITATIONS ON POINT OF DISCHARGE:**

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

**6201.           DISCHARGE INTO STORM DRAIN PROHIBITED:**

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

**6201.1.       REGULATION OF TRUCKED OR HAULED WASTE:**

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

**6202.           PUBLIC NUISANCE:**

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

**6203.           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 by telephone or in person within one (1) hour of becoming aware of accidentally discharging wastes of reportable quantities as determined in 40 CFR 117 or discharge of any substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261, to enable countermeasures to be taken by the city to minimize damage to the sanitary sewer system, plant, treatment processes, and the receiving waters. If hazardous waste is discharged, industrial user shall be subject to all requirements in 40 CFR 403.12(p).
- D. Telephone notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement furnished to both the District and the Environmental Services Department describing the causes of the accidental discharge and the measures being taken to prevent future occurrences.

- E. Notification to the District and the Environmental Services Department will not relieve industrial users of notification requirements under any other federal, state or local law, nor of liability for any expense, loss or damage to the sanitary sewer system, Plant or treatment process or receiving waters or for any fines or penalties imposed on the city on account thereof under applicable provisions of state or federal law.
- F. All permitted facilities must maintain a spill control plan for protection against accidental discharges, including but not limited to, berming of chemicals and waste materials. The review of such plans and procedures shall not relieve the industrial user from the responsibility of modifying the facility as necessary to provide the protection necessary to meet the requirements of this Code or other state or federal regulations.
- G. This plan must be reviewed and revised as needed within thirty (30) days after an accidental discharge has occurred or as required by the Director.

**6204.            **PRETREATMENT BY OWNER:****

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

**6205.            **MONITORING FACILITIES:****

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

**6206.            **STORM AND OTHER WATERS:****

- A. No person shall discharge, cause, allow or permit any storm water, surface water or roof runoff, to be discharged into the Sanitary Sewer System or any part thereof.

- B. No person shall discharge, cause, allow or permit any ground water or subsurface drainage, to be discharged into the Sanitary Sewer System or any part thereof, without a Wastewater Discharge Permit issued by the District Manager or the Director specifically for such discharge.
- C. A Wastewater Discharge Permit for the discharge of, ground water or subsurface drainage shall only be issued if there is no reasonable alternative method for disposal of such water.
- D. If permitted, discharge of ground water or subsurface drainage shall be subject to all applicable requirements of this Operations Code, including but not limited to the payment of applicable permit fees and such terms and conditions as the District Manager or the Director may impose in the Wastewater Discharge Permit.

**6207. COOLING AND UNPOLLUTED WATER:**

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

**6208. OBSTRUCTING OR INJURIOUS SUBSTANCES:**

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

**6208.1. COPPER-BASED CHEMICAL COMPOUNDS:**

- A. No person shall discharge, or cause, allow or suffer to be discharged, any chemical compound containing greater than five percent (5%) copper by weight, to control roots or for any other purpose into the sanitary sewer system or any part thereof, or into any plumbing fixture or sewer which discharges, either directly or indirectly, into the sanitary sewer system.
- B. No person shall display in any public place any chemical compound containing greater than five percent (5%) copper by weight, to control roots or for any other purpose, without first providing clear and reasonable written warning that discharge of said compound into the sanitary sewer system or any part thereof, or into any plumbing fixture or sewer or drain which discharges, either directly or indirectly, into the sanitary sewer system is prohibited by ordinance of the Cupertino Sanitary District.
- C. For the purposes of this Section, warning may be provided by posting a decal, placard or sign at the point of display of the compound. Any warning given

under this Section shall be reviewed and must be approved by the District Manager.

- D. For purposes of this Section only, public place shall be defined as any building or area (including, without limiting the generality of the foregoing, any store or business establishment) where copper based chemical compounds may be viewed and obtained by members of the general public."

**6209. FLAMMABLE OR EXPLOSIVE SUBSTANCES:**

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

**6210. HOT SUBSTANCES:**

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

**6210.1. TOXIC GASES, VAPORS OR FUMES:**

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

**6211. GREASE:**

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

**6212. SOLID OR VISCOUS MATTER:**

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

**6213. CORROSIVE MATTER:**

No person shall discharge, or cause, allow or permit to be discharged into the sanitary sewer system or any part thereof, any liquid, solid, vapor, gas, or thing having a pH lower than 6.0 or more than 12.5 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.

**6214. INTERFERING SUBSTANCES:**

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

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

- B. No person shall discharge, cause, allow, or permit to be discharged into the sanitary sewer system or any part thereof, any toxic or poisonous substances or any other pollutant, including biochemical oxygen demand, in sufficient quantity to injure or cause an interference with the sewage treatment process or pass through the plant, or in sufficient quantity to constitute a hazard to humans or animals, or in sufficient quantity to create a hazard for humans, or aquatic life in any waters receiving effluent from the sanitary sewer system, or which may create a hazard in the use or disposal of sewage sludge.
- C. All samples, both grab and composite, shall demonstrate compliance with the above limits.
- D. Any industrial user that violates any of the interfering substances limits must resample and submit sample reports for all pollutants in violation of any applicable permit limits or any other pollutants as required by the Director within thirty (30) days of becoming aware of the violation.

**6215. PROHIBITION ON USE OF DILUTING WATERS:**

The use of Diluting Waters as a partial or complete substitute for adequate treatment, to achieve compliance, or to meet local limitations for wastewater, or to avoid or minimize any requirements imposed in a Wastewater Discharge Permit is prohibited.

**6216. SUSPENDED SOLIDS; DISSOLVED MATTER:**

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

**6217. 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.

**6218. RADIOACTIVE MATTER:**

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

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

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

**6219. 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.

**6220. GARBAGE:**

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

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

**6221. INSTALLATION OF GREASE CONTROLDEVICES:**

- 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 30 minutes.
    - b. The effluent from the device must flow through an approved sample box.
    - c. Installed per manufacturer's specifications.
    - d. At least two (2) manholes, situated so all standpipes can be fully observed, and all internal surfaces can be reached, without confined space entry.

- e. Double-sweep clean-outs, on the interceptor inlet and sample box outlet.
  - f. Shall meet the specifications and be constructed in accordance with the provisions of the applicable building codes.
2. Grease Traps shall meet the following minimum requirements:
- a. No injection port for chemicals or bacteria.
  - b. Installed per manufacturer's specifications.
  - c. Appropriate flow restrictors, whether integral or external to the device, must be installed.
  - d. Shall meet the specifications and be constructed in accordance with the provisions of the applicable building codes.
3. Mechanical Grease Removal Devices shall be installed in accordance with manufacturer's specifications.
- B. Each grease removal device shall be so installed and connected that it shall be at all times easily accessible for inspection, sampling, cleaning and removal of Grease, and other matter from all surfaces.
- C. A Grease Control Device should be situated on the discharger's premises except when such a location would be impractical or cause undue hardship on the discharger. The District may, subject to the issuance of an encroachment permit by the entity having jurisdiction thereover, allow the device to be installed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.
- D. Waste discharge from fixtures and equipment in establishments which may contain Grease or other objectionable materials including, but not limited to, scullery sinks, pot and pan sinks, dishwashers, food waste disposals, soup kettles, and floor drains located in areas where such objectionable materials may exist, may be drained into the sanitary waste through the Grease Control Device when approved by the District Manager provided, however, that toilets, urinals, wash basins, and other fixtures containing fecal material shall not flow through the grease removal device.

**6221.1. 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 once every ninety (90) days.
  - 3. Mechanical Grease Removal Devices must be maintained in a manner and frequency consistent with manufacturer specifications and guidance.
  - 4. Grease Control Devices shall be cleaned when their last chamber is filled to twenty-five percent (25%) or more of capacity with Grease or settled solids. Grease Interceptors with a sample box shall be cleaned immediately when grease is evident in the sample box.
  - 5. Grease Control Devices shall be cleaned by being pumped dry and all accumulated sludge on all surfaces shall be removed by washing down the sides, baffles, and tees. No water removed from the device during cleaning shall be returned to the Grease Control Device.
- C. The District Manager may grant an exception to the requirements 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 percent (25%) of the capacity of the Grease Control Device will be filled with Grease or settled solids.
- D. All dischargers shall implement Best Management Practices in their operations to minimize the discharge of Grease to the sanitary sewer system.
- E. Dischargers shall maintain records on site for a period of at least 3 years as follows:
  - 1. Dischargers with an installed Grease Control Device shall maintain records showing that the Grease Control Device has been properly maintained and cleaned as required by subsections A and B; and
  - 2. Food Service Establishments shall maintain records showing the following related to all Grease hauled off site: date and time material removed off site; volume removed; hauler name; truck license number, type of Grease removed, and final destination of material collected.
- F. Abandoned grease removal devices shall be emptied and filled as required for abandoned septic tanks.

**6222.**

**SCREENED INDUSTRIAL WASTES:**

- A. No person shall discharge, or cause, allow or permit to be discharged into the sanitary sewer system or any part thereof, any garbage, or any fruit, vegetable, animal, or other solid industrial wastes resulting from the processing, packaging, or canning of fruits, vegetables, or other foods or products, unless such wastes have first been passed through screens having openings not exceeding 1/32 of an inch in dimension, provided that the District Manager, by written permission, may authorize the discharge into the sanitary sewer system of such wastes if they are first passed through screens having larger openings if the District Manager is satisfied that such larger openings will provide screening efficiency and effectiveness equal or better than that provided by the above-specification openings of 1/32 of an inch in dimension.
- B. Each person who discharges, or causes, allows, or permits to be discharged into the sanitary sewer system or any part thereof, any such wastes resulting from the processing, packaging, or canning of fruits, vegetables, or other foods or products, shall install within or upon his premises from which such wastes are discharged, before such discharge of such wastes is made into said sanitary sewer system or any part of such system, and thereafter maintains in good operating order, screens as hereinabove specified and appurtenances thereto, including but not limited to all necessary conveyors and elevators, all in sufficient quantity and of sufficient size and quality to continuously and effectively screen not less than 100% of the peak hydraulic and solids loading imposed on such screens and appurtenances during any processing period.
- C. No person shall discharge any such screened wastes into said sanitary sewer system, or any part of said system, unless and until he shall obtain from the District a Wastewater Discharge Permit granting approval to do so. The District Manager may require such a person to provide to the District Manager a report prepared by a registered professional engineer which shows, to the satisfaction of the District Manager, that the provisions of this chapter have been complied with by such person before the Wastewater Discharge Permit is granted, and in no event shall the District Manager issue such Permit until he is satisfied that the provisions of this Section have been complied with by such person. The District Manager shall not issue such Permit if any such wastes cannot be processed successfully by the physical and biological processing units of the Water Pollution Control Plant.
- D. Any and all equipment, sewers, pipelines, or other facilities capable of discharging any garbage, fruit, vegetables, animal, or other solid industrial wastes resulting from the processing, packing, or canning of fruits, vegetables, or other foods or products, into said sanitary sewer system or any part thereof, before such wastes have been screened as required by paragraph (a) above, shall be locked, closed and sealed by the District Manager or his authorized representative. Each person operating such equipment, sewers, pipelines, or other facilities shall install therein, at his own expense and cost, such valves or other devices or modifications thereto, as may be necessary to enable the District Manager to carry out the provisions of this paragraph (d). No person

shall break any such lock or seal, and no person shall discharge, or cause, allow or permit to be discharged into any such equipment, sewers, pipelines, or other facilities capable of discharging such industrial wastes into said sanitary sewer system or any part thereof, any unscreened industrial wastes without first having been issued a Wastewater Discharge Permit.

**6223. REPEALED.**

**6224. REPEALED.**

**6225. REPEALED.**

**6226. REPEALED.**

**6227. REPEALED.**

**6228. REPEALED.**

**6229. REPEALED.**

**6230. REPEALED.**

**6231. 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.

**6232. DISPOSAL OF UNACCEPTABLE WASTE:**

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

**6233. RESPONSIBILITY:**

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

**6233.1. RECORD KEEPING:**

All Industrial Users subject to the reporting requirements of this chapter shall retain and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, and any additional records of information obtained pursuant to monitoring activities undertaken by the Industrial User independent of such requirements. These records shall remain available for a period of at least three (3) years.

This period shall be automatically extended for the duration of any enforcement action concerning the industrial user, or where the industrial user has been specifically notified of a longer retention period by the Director.

**6234.           FALSIFICATION OF INFORMATION:**

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

**6235.           POWER TO INSPECT:**

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

**6236.           CONNECTION OF SWIMMING POOLS AND EQUIPMENT:**

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

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

**6237.           FIXER SOLUTION PROHIBITION:**

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

**6238.           INSTALLATION AND MAINTENANCE OF AMALGAM SEPARATORS:**

- A.    Except as provided in subsections B and C below, no person shall discharge,

cause, allow or permit any discharge to the sanitary sewer system from a dental vacuum system, unless such discharge has first been processed through an Amalgam Separator.

- B. For each dental vacuum system installed prior to July 1, 2009, an Amalgam Separator shall be installed on or before December 31, 2010. No dental vacuum system shall be installed on or after July 1, 2009 without an Amalgam Separator. Proof of certification and installation records shall be submitted to the District Manager within thirty (30) days of installation.
- C. A dental vacuum system may be operated without an Amalgam Separator provided that the system is not used in connection with the removal or placement of fillings that contain Dental Amalgam more than three (3) days per calendar year and the system is used exclusively by the following types of dental practices: (1) Orthodontics; (2) Periodontics; (3) Oral and maxillofacial surgery; (4) Radiology; (5) Oral pathology or oral medicine; (6) Endodontistry and prothodontistry.
- D. Amalgam Separators shall be maintained in accordance with manufacturer recommendations. Installation, certification, and maintenance records shall be maintained for minimum of five (5) years and available for immediate inspection upon request by the District Manager or designee during normal business hours.

**Article 3**  
**WASTEWATER DISCHARGE PERMITS**

**6300. WASTEWATER DISCHARGE PERMITS; MANDATORY PERMITS:**

All Critical Users proposing to connect or to discharge into a District sewer must obtain a Wastewater Discharge Permit before connecting to or discharging into a District sewer. All existing Critical Users connected to or discharging into a District sewer must obtain a Wastewater Discharge Permit within 180 days of promulgation of administrative regulations for their issuance and use by the District Manager.

**6301. TERMINATION OF SERVICE AND PERMIT REVOCATION:**

- A. The District Manager or the Director may revoke any Wastewater Discharge Permit, and/or terminate, or cause to be terminated wastewater service to any premises:
  - 1. If a discharge of wastewater from the premises cause or threatens to cause a violation of any provision of the Chapter or any Ordinance, rule or regulation of the District or applicable local, State or Federal regulations: or
  - 2. If a discharge of wastewater from the premises causes or threatens to cause a condition of contamination, pollution, or nuisance.
- B. Written notice of the permit revocation or service termination, and a statement of the grounds therefor, shall be delivered to the Discharger. The notice shall be effective ten (10) calendar days after it is served on the Discharger, unless the District Manager or the Director determines that immediate permit revocation or suspension of service is necessary for the preservation of public health or safety or for the protection of public or private property. If the District Manager or the Director determines that immediate permit revocation or suspension of service is necessary, the District Manager or the Director may act to revoke the permit or suspend service immediately after written notice is delivered to the Discharger.
- C. It shall be unlawful for any person to discharge any material into the Sanitary Sewer System from any premises for which the permit has been revoked or wastewater service has been suspended or terminated.

**6302. 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.

**6303. CIVIL PENALTIES:**

Any person who intentionally or negligently violates any provisions of this Chapter, any provision of any permit issued pursuant to this Chapter, or who intentionally or negligently discharges waste or wastewater which causes pollution, or violates any effluent limitation, national standard of performance, or national pretreatment or toxicity standard, shall be civilly liable to the District in a sum up to ten thousand dollars (\$10,000) for the first day in which such violation occurs, up to twenty-five thousand dollars (\$25,000) for the second day in which such violation occurs, and fifty thousand dollars (\$50,000) for each additional day.

**6304. 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 discharge permit issued by the Director.

**6305. PERMIT DURATION AND AMENDMENT:**

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

**6306. DELINQUENT FEES:**

- A. Permit applications are due ninety (90) days prior to commencing discharge to the sanitary system or expiration of existing discharge permit. Any person who fails to file an application for a discharge permit prior to discharge shall be assessed a penalty for delinquent filing as follows:
  - 1. Up to and including thirty (30) days delinquency, the penalty shall be fifty (50) percent of the permit fee.
  - 2. More than thirty (30) days but less than one (1) year delinquency, the penalty shall be one hundred (100) percent of the permit fee.
  - 3. More than one (1) year delinquency, the penalty shall be one thousand (1,000) 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 city may have with respect to the discharge.

**6307. SIGNATURE REQUIREMENTS:**

- A. Permit applications, discharge reports and any other reports required by the District Manager 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.

**6308. ADDITIONAL INFORMATION:**

- A. If the District Manager or the Director is not satisfied that the permit application has sufficient information to determine whether the permit should be issued, the District Manager or the Director 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 or the Director, after reviewing the information, to complete the application.
- C. If the returned application is not resubmitted within the specified time period, then a new application for Wastewater Discharge permit must be submitted along with the application fees for a new permit.

**6309. NO TRANSFER OF PERMIT:**

Wastewater Discharge Permits are issued to a specific user for a specific operation. No user shall assign, transfer or sell a Wastewater Discharge Permit, or use the permit for on premises or for facilities or operations not covered by the permit.

**6310. DENIAL OF PERMIT:**

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

- A. The application is not accompanied by the required fee(s).
- B. The application contains false or misleading information.
- C. The issuance of the permit would result in the discharge of industrial wastes of such quantity or strength that the public health, safety, public, or private property are endangered.

- D. The issuance of the permit would cause the plant to violate any permit conditions, laws, or regulations of the state and/or federal government.
- E. The applicant has not provided adequate information to establish that its discharge will comply with all requirements of this chapter and with such other terms and conditions as the District Manager or the Director may deem necessary to include in the applicant's permit.
- F. The applicant has not provided plans for sufficient protection from accidental discharges to the land, storm sewer system, and sanitary sewer system.
- G. If the District Manager or the Director refuses to issue a permit, the application fees shall not be returned to the applicant unless the District Manager or the Director has ascertained that a permit is not required to discharge the wastewater for which the permit application is made.

**6311. PERMIT APPEALS:**

- A. Any permittee or permit applicant may appeal a notice of revocation of a discharge permit, notice of denial of a permit, any term or condition of a permit, amendment of a permit, or notice of termination of service to the District Board.
- B. A request for hearing on a decision to revoke a permit or terminate service shall be filed, in writing, with the District Manager within ten (10) days after the date the notice of revocation or termination of service is served on the permittee. The District Manager shall promptly furnish a copy of the request to the Director if the decision from which the appeal is taken was made by the Director. A request for hearing on a decision to revoke a permit or terminate service shall, except in the case of immediate permit revocation or suspension of service for the preservation of public health or safety or for the protection of public or private property, stay the effect of the notice of revocation or termination of service, during the pendency of the appeal.
- C. A request for hearing on a decision to deny a permit, on the terms or conditions in a permit, on an amendment to a permit, shall be filed, in writing, with the District Manager within thirty (30) days after the date the notice of decision is served on the applicant. The District Manager shall promptly furnish a copy of the request to the Director if the decision from which the appeal is taken was made by the Director.
- D. Failure of a permittee or applicant to timely request a hearing shall be deemed acceptance of the decision by the District Manager or the Director, and such decision shall be deemed final and effective.
- E. At the hearing before the District Board, the applicant shall be given an opportunity to present witnesses and documentary and other evidence.

- F. The hearing will be conducted informally and technical rules of evidence shall not apply. Any and all evidence which the District Board deems reliable, relevant and not unduly repetitious may be considered.
- G. The applicant may be represented at the hearing by any other person.
- H. The District Manager shall provide written notice of Board's decision on the appeal to the permittee or applicant. The decision of the District Board on the appeal shall be deemed final and effective three (3) days after notice of the decision on appeal is served on the permittee or applicant.
- I. Filing of a request for hearing shall not entitle any person to discharge in violation of any of the provisions of this Code.

**6312. DISCHARGE REPORTS:**

- A. The District Manager or the Director may require that any person discharging wastewater into the Sanitary Sewer System file periodic discharge reports or a zero discharge report.
- B. The periodic discharge report may include, but need not be limited to, nature of process, volume, rates of flow, mass emission rate, hours of operation, number of employees, or other information which relates to the generation of waste, including wastewater constituents and characteristics in the wastewater discharge and the ability of the Discharger to meet applicable discharge limits.
- C. The zero discharge report shall certify that the Discharger does not discharge Industrial Waste to the Sanitary Sewer System.
- D. The District Manager or the Director may also require such periodic discharge reports and zero discharge reports to include information concerning the chemical constituents and quantity of chemicals stored on-site, even though they may not normally be discharged.
- E. In addition to discharge reports, the District Manager or the Director may require Industrial Users to submit such additional reports as may be necessary to allow the District or the Director to evaluate the Industrial User's discharge, including but not limited to 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 the Director.
- G. Sampling and analysis shall be performed in accordance with 40 CFR 136 and amendments thereto. Where 40 CFR 136 does not contain sampling or analytical methods for the pollutant in question, or where the District Manager or the Director determines that 40 CFR 136 are inappropriate for the pollutant in question, sampling and analysis shall be performed by using analytical methods validated by the District Manager or the Director.

**6313. PERMIT APPLICATION:**

- A. All persons requiring a discharge permit shall file a complete application in the form prescribed by the Director and accompanied by the applicable fees as established by resolution of the city council of the City of San Jose.
- B. For new construction, permit applications shall be filed with the Director at the time that an application for a building permit for a new building or structure is made.
- C. All persons discharging wastewaters into the sanitary sewer system for which a wastewater discharge permit has been issued must apply for a new permit prior to making a significant change in the operations affecting their discharge.

**6314. PERMIT CONDITIONS:**

- A. Wastewater Discharge Permits shall be expressly subject to all provisions of this Chapter and all other regulations, user charges, discharge limitations, and fees established by the District and 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, the regulations issued by the District Manager under 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 constituents and characteristics;
  - 2. Requirements for installation and maintenance of flow monitoring, inspection, and sampling facilities;
  - 3. Specifications and pretreatment requirements for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
  - 4. Compliance schedules;
  - 5. Requirements for submission of technical reports or discharge reports;
  - 6. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the District and affording the District access thereto;
  - 7. Requirements for notification to the District 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.

**CHAPTER VII  
SEWER SERVICE CHARGES**

**7000. GENERAL:**

There is hereby levied and assessed upon each premise which is discharging sewage that ultimately passes through the sanitary sewer system of the District, a service charge as provided in this Chapter. The service charge for each Single Family Unit shall be as specified as Section 7001; the service change for each of the particular Units listed in Section 7002 shall be as specified therein; and the service charge for all other Units shall be as specified in Section 7003.

**7001. CHARGE FOR SINGLE FAMILY UNITS:**

Each Single Family Unit (as defined in Section 2066.B) shall be charged Three Hundred Thirty-Six Dollars (\$336.00) per year.

**7002. CHARGES FOR PARTICULAR UNITS:**

A. Each Unit (as defined in Section 2066.A) of the particular uses listed below shall be charged Five Dollars Eight and 7/100<sup>ths</sup> Cents (\$5.087) per year, plus an additional annual service charge per hundred cubic feet (HCF) of sewage discharged, to be determined by the District Manager in accordance with the annual use of water by each Unit times the applicable rate to be determined by the District Manager as follows:

<u>Type of Use:</u>	<u>Service Charge:</u>
Auto Repair Shops & Service Stations	\$2.745 /HCF
Car Washes	\$2.293 /HCF
Domestic Laundry	\$2.473 /HCF
Machinery Manufacturers	\$4.020 /HCF
Motels or Hotels without Food Service	\$2.799 /HCF
Motels or Hotels with Food Service	\$4.700 /HCF
Retirement Homes with Common Dining Facilities	\$5.289 /HCF
Convalescent Hospitals	\$2.653 /HCF
Printing Plants	\$4.729 /HCF
Restaurants	\$5.732 /HCF
Retail or Professional Office	\$2.519 /HCF
Schools, Colleges, Day Care Facilities	\$3.577 /HCF

B. Minimum Charge: In no event shall the annual service charge levied upon any Unit of the uses listed in Paragraph A above, be less than seventy-five percent (75%) of the service charge for a Single Family Unit, as set forth in Section 7001 of this Chapter.

C. Where different types of Units are serviced by the same water meter, the District Manager shall estimate the quantity of discharge material produced by

each type of Unit and calculate the additional service charge applicable to each type of Unit based upon the estimated discharge from that Unit.

- D. Whenever the District Manager determines that a Unit has been inappropriately classified as one of the types listed in Paragraph A of this Section, the District Manager may reclassify such Unit to another of the types listed in Paragraph A of this Section or require that the annual service charge for such Unit be calculated in accordance with the provisions of Section 7003 of this Chapter. Any increase or decrease in the annual service charge for the affected Unit resulting from the reclassification shall be prospective only and implemented on the next regular billing by the District for annual sewer charges. No discharger shall be entitled to a retroactive refund of charges paid, or liable for payment of additional charges, for any period prior to the effective date of the reclassification.

**7003. CHARGES FOR ALL OTHER UNITS**

- A. For each Unit not listed in Section 7002, the annual service charge shall be the sum of the annual Capital Cost Recovery Charge and the annual Maintenance and Operation Cost Recovery Charge, as determined by the District Manager, calculated as follows:

- 1. Capital Cost Recovery Charge:

Infiltration/Inflow (I/I)	\$5.087 per year for each unit; <i>plus</i>
Flow	\$219,368.533 per year for each million gallons per day of sewage treatment plant capacity required to treat the sewage discharged from the Unit into the sanitary sewer system; <i>plus</i>
Biochemical Oxygen Demand (BOD)	\$32,033.373 per year for each thousand pounds per day of sewage treatment plant capacity required to remove the biochemical oxygen demand contained in sewage discharged from the Unit into the sanitary sewer system; <i>plus</i>
Suspended Solids (SS)	\$29,613.240 per year for each thousand pounds per day of sewage treatment plant capacity required to remove the suspended solids contained in the sewage discharged from the Unit into the sanitary sewer system; <i>plus</i>
Ammonia (NH3)	\$97,206.267 per year for each thousand pounds per day of sewage treatment plant capacity required to remove ammonia contained in the sewage discharge from the

Unit into the sanitary sewer system.

2. Operation and Maintenance Cost Recovery Charge:

Flow	\$1,909.893 for each million gallons per year of sewage discharged from the Unit into the sanitary sewer system; <i>plus</i>
Biochemical Oxygen Demand (BOD)	\$217.427 for each thousand pounds per year of biochemical oxygen demand discharged from the Unit into the sanitary sewer system; <i>plus</i>
Suspended Solids (SS)	\$283.933 for each thousand pounds per year of suspended solids discharged from the Unit into the sanitary sewer system; <i>plus</i>
Ammonia (NH <sub>3</sub> )	\$2,344.28 for each thousand pounds per year of ammonia discharged from the Unit into the sanitary sewer system.

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

**7004. UNMETERED AND METERED WASTES:**

When rates are herein specified to be in accordance with the use of water, all such premises shall be separately metered. Where such metering is not provided, or for newly constructed units, the District Manager shall make a reasonable estimate of the volume of water consumed to be used as a basis for sewer service charges.

The District Manager may meter the sewer line, and if the results differ from that used as a basis for sewer service charges for the previous billing, the user will be charged for any

excess usage or credited for any overpayments. The new billing will be adjusted to conform to the actual metering.

**7005. WHEN SERVICE CHARGES ARE DUE:**

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

**7006. ALTERNATE METHOD OF BILLING AND COLLECTING RATES AND CHARGES:**

The District may elect to use the tax roll on which general District taxes are collected for the collection of current or delinquent rates and charges, including fees, tolls, rates, rentals or other charges for services and facilities furnished by it. In such case, proceedings therefor shall be had as now or hereafter provided in Article 4, Chapter 6, Part 3, Division 5 of the Health and Safety Code of the State of California.

This method shall not apply to public property or other property which, in the opinion of the District Manager, cannot be conveniently handled by this method.

**7007. PAYMENT OF SERVICE CHARGES, NEW CONNECTIONS:**

- A. Definition of Building Official. As used in this Section, the term "building official" means the city or county official having authority to issue certificates of occupancy or final inspection approvals for newly constructed improvements.
- B. Commencement Date for Service Charges. In the case of new connections to the sanitary sewer system for which a connection permit is issued pursuant to Chapter VIII, sewer service charges shall commence on the date a certificate of occupancy is issued by the building official for the newly constructed improvements on the property, or, if no certificate of occupancy will be issued, the date on which final inspection approval is granted by the building official for such improvements (the "Commencement Date").
- C. Initial Payment. At the time the District is requested by the building official to grant a clearance for issuance of a certificate of occupancy or final inspection approval, the District shall collect from the permittee the amount of sewer service charges that will become due from the expected Commencement Date referred to in Paragraph (b) above to the next billing in which sewer service charges can be included on the tax roll or billed to the owner, as determined by the District Manager. No clearance shall be granted until such charges are paid in full.
- D. Refund of Overpayment. In the event of a delay of 30 days or greater by the building official in issuing the certificate of occupancy or final inspection report occurring after the District has collected the initial payment of sewer service charges pursuant to Paragraph (c) above, and evidence of such delay having

been presented to the satisfaction of the District Manager, then the District Manager shall refund to the permittee that portion of the service charges attributable to the period between the expected Commencement Date and the actual Commencement Date.

- E. Delayed Collection of Initial Payment. In the event the building official issues a certificate of occupancy or final inspection approval without the District having first collected the initial payment of sewer service charges in accordance with Paragraph (c) above, then upon discovery of the actual Commencement Date, the District shall be entitled to bill to the permittee or add to the tax roll, or both, any sewer service charges accruing between the actual Commencement Date and the next billing in which sewer service charges can be included on the tax roll or billed to the owner, as determined by the District Manager.

**7008. DELINQUENT SERVICE CHARGES:**

- A. Accounts Billed By District Manager - Shall become delinquent two calendar months from and after the date that they have become due and payable. A penalty equal to 100% of the monthly service charge may be charged for each calendar month, or portion thereof, that the account remains delinquent. If an account is delinquent more than 120 days, service may be disconnected. The District may collect unpaid sewer service charges by suit, in which event it shall have judgment for the cost of suit and reasonable attorneys' fees.
- B. Accounts Billed by Tax Roll - Are Subject to the same penalty as prescribed by law for General Taxes.

**7009. APPEALS:**

Any decision or determination made by the District Manager pursuant to this Chapter may be appealed by the discharger to the District Board by filing a notice of appeal with the District Clerk. The notice shall set forth the grounds of the appeal and shall be accompanied by such information and documents the discharger desires to submit to the District Board in support of the appeal. An appeal shall not operate as a stay on the decision of the District Manager that is the subject of the appeal and such decision shall be effective and enforced at the same time and in the same manner as if no appeal therefrom had been filed.

**CHAPTER VIII  
PERMITS AND FEES**

**Article 1  
CONNECTION PERMIT**

**8100. CONNECTION PERMIT:**

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

**8101. CONNECTION PERMIT FEES:**

Each connector, other than those connectors covered under Section 8102, shall pay a fee of Seventy-Five Dollars (\$75.00) to District for issuing each connection permit, which fee shall include the inspection of the connection of the house sewer to the lateral sewer.

**8102. CONNECTION PERMIT FEE - CITY OF CUPERTINO:**

Each connector within the City of Cupertino shall pay fees to District as follows:

- A. Permit Fee - Seventy-Six Dollars (\$76.00) for the issuing of each connection permit, which shall include the inspection of the connection of the house sewer to the lateral sewer.
- B. Backflow Protective Device Inspection Fee - One Dollar and Fifty Cents (\$1.50) providing a backflow protective device is required to be installed in accordance with Section 4105, said fee shall be for the inspection of the backflow protective device.

**8103. TIME LIMITATION ON CONNECTION PERMIT:**

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

**8104. PERMIT ISSUANCE:**

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

**8105. SUSPENSION OR REVOCATION OF PERMITS:**

If the permit holder fails or refuses to comply with any provision or condition of the permit, this Code, the rules and regulations of the District and orders of the District Manager and Engineer, or the rules and regulations of a municipal, county, state or federal agency, the District Manager and Engineer shall have the authority to suspend the permit by giving written notice of the suspension to the permit holder, stating that the permit is suspended, the reasons for the suspension, and the effective date of suspension. The suspension continues until the permit holder removes the grounds for suspension, but in no event shall the suspension be in effect for longer than 6 months from its effective date. All orders of suspension are subject to the appeals procedures provided for in Chapter XI of this Code.

If any of the grounds for a suspension continue during the period of the suspension, and, in the opinion of the District Manager and Engineer, are likely to continue past the termination date of the suspension; he may give written notice to the permit holder specifying the time and place of a hearing before the Sanitary Board to consider revocation of the permit. Said notice shall be given at least ten (10) days prior to said hearing, served in the manner prescribed in Section 1006 of the Operations Code and shall include the grounds for the proposed revocation.

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

**Article 2**  
**CONNECTION FEES**

**8200. FRONT-FOOTAGE AND ACREAGE FEES:**

For all residential, commercial, industrial, schools and other like structures, or developments shall be paid by connectors and installers in each Zone of this District as defined in Section 3002 of this Code as follows:

- Zone 1 - \$16.50 per front foot and \$910.00 per acre.
- Zone 2 - \$19.80 per front foot and \$1,040.00 per acre, except that where a sewer is installed to serve only one side of the street, such charge shall be \$39.60 per front foot and \$1,040.00 per acre.
- Zone 3 - \$19.80 per front foot and \$1,170.00 per acre, except that where a sewer is installed to serve only one side of the street, such charge shall be \$39.60 per front foot and \$1,170.00 per acre.
- Zone 4 - \$23.10 per front foot and \$1,300.00 per acre, except that where a sewer is installed to serve only one side of the street, such charge shall be \$46.20 per front foot and \$1,300.00 per acre.

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

**8201. ADJUSTMENTS IN FRONT FOOTAGE:**

Will be as follows:

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

**8202. ADDITIONAL RESIDENTIAL UNIT OR DWELLING UNIT FEES:**

Additional residential unit or dwelling unit fees shall be paid by all persons connecting to the District sewer, in addition to fees to be paid pursuant to Section 8200 of this Code, for each residential unit or dwelling unit as defined in Section 2045(a) and 2045(b) of this Code in each Zone of this District as defined in Section 3002 of this Code as follows:

- A. For any and all residential uses including multiple unit residential buildings, townhouse, condominium, planned unit development, cluster development or similar type residential development, motel, hotel, court, auto court, trailer court, mobile home park, cabana, boarding houses, rest homes, dormitories, and

similar type residential developments having a density in excess of three and one-half (3-1/2) units or dwelling units per acre:

- Zone 1 - \$325.00 for each unit or dwelling unit exceeding 3-1/2 units per acre.
- Zone 2 - \$355.00 for each unit or dwelling unit exceeding 3-1/2 units per acre.
- Zone 3 - \$390.00 for each unit or dwelling unit exceeding 3-1/2 units per acre.
- Zone 4 - \$420.00 for each unit or dwelling unit exceeding 3-1/2 units per acre.

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

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

**8203. ADDITIONAL COMMERCIAL/INDUSTRIAL DENSITY FEE:**

Additional density fees shall be paid by all persons connecting to the District sewer system, in addition to fees to be paid pursuant to Section 8200 of this Code, for each commercial or industrial building, in each zone of this District as defined in Section 3002 of this Code, as follows:

- A. For the initial connection to the sanitary sewer system of any and all commercial or industrial uses:
  - Zone 1 - \$1.44 per gallon per day for each gallon of sewage discharge exceeding 1,120 gallons per day per acre.
  - Zone 2 - \$1.58 per gallon per day for each gallon of sewage discharge exceeding 1,120 gallons per day per acre.
  - Zone 3 - \$1.73 per gallon per day for each gallon of sewage discharge exceeding 1,120 gallons per day per acre.
  - Zone 4 - \$1.87 per gallon per day for each gallon of sewage discharge exceeding 1,120 gallons per day per acre.
- B. For any change in use of any and all commercial or industrial connections that result in an increase of sewage discharge:

- Zone 1 - \$1.44 per gallon per day for all or any portion of the increased sewage discharge which shall exceed a total sewage discharge of 1,120 gallons per day per acre.
- Zone 2 - \$1.58 per gallon per day for all or any portion of the increased sewage discharge which shall exceed a total sewage discharge of 1,120 gallons per day per acre.
- Zone 3 - \$1.73 per gallon per day for all or any portion of the increased sewage discharge which shall exceed a total sewage discharge of 1,120 gallons per day per acre.
- Zone 4 - \$1.87 per gallon per day for all or any portion of the increase sewage discharge which shall exceed a total sewage discharge of 1,120 gallons per day per acre.

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

**8204. HOMESTEAD AGREEMENT:**

Fees for property included in the Homestead 1956-1 Agreement shall be the same as provided for in this Article, except where conflicting provisions are contained in said Agreement, as amended, in which case the terms of said Agreement shall prevail.

**8204.1. SPECIAL EQUALIZATION CHARGES:**

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

**8205. PAYMENT OF CONNECTION FEES:**

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

**8206. CREDIT FOR CONNECTION FEES PAID UNDER AN ASSESSMENT DISTRICT:**

- A. Partial Payment - Any property located within an assessment district which has been assessed for indirect or future benefits shall be given credit for said assessment on the fees provided for in Section 8200 above.
- B. Full Payment - Any property located within an assessment district which was assessed a sum equal to the full, and complete benefit to said property shall be given full credit for fees provided for in Section 8200 above.

**Article 3**  
**LATERAL SEWER PERMIT AND FEES**

**8300. LATERAL SEWER PERMIT:**

Each connector shall obtain a lateral sewer permit from the District Manager before a sewer connection permit can be issued, except when there is an existing lateral sewer that was assessed against the property under a local improvement district, or installed by an installer as part of the development of that parcel of land.

**8301. LATERAL SEWER PERMIT FEES:**

For each lateral sewer permit issued there will be a charge of Three Hundred Dollars (\$300.00) for issuing the permit and inspection of the construction.

**8302. LATERAL SEWER FEES (EXISTING DISTRICT-OWNED LATERAL SEWER):**

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

- A. Permit Fee - Per Section 8301.
- B. Construction Charge - Equal to the per-foot charge paid by the District for said lateral times one-half the width of the street (60 foot maximum street) in which the lateral sewer is constructed.
- C. "Y" Connection - The cost of the "Y" connection to the branch or main sewer.
- D. Encroachment Permit - As charged by Local Agency.

**Article 4**  
**ENVIRONMENTAL QUALITY ACT - FEES**

**8400. FEES AND DEPOSITS - ENVIRONMENTAL QUALITY ACT:**

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

**CHAPTER IX  
REIMBURSEMENT OF EXCESS COSTS**

**9000. EXCESS COSTS:**

Excess costs equal the sum of the following:

- A. Oversizing - The difference between the estimated cost of installing the size of line required to serve the installer's needs (8-inch minimum) and the actual cost of installing a larger line, where a line of greater than the size line required to serve the installer's needs, was installed by installer at the direction of the District.
- B. In Tract - One-half the cost of installing an 8-inch line or 6-inch line and appurtenances depending upon which size is installed by installer along the boundary line of property of installer where a sewer line has been installed by installer along said boundary, and is subject to probable future use by connectors other than installer.
- C. Off Tract - One hundred percent (100%) of the costs of installing all sewer lines and appurtenances beyond the property line of installer where sewer lines have been extended wholly outside the property of installer and are subject to probable future use by connectors other than installer.

**9001. APPROVAL OF EXCESS COSTS;  
CREDIT THEREOF TO REIMBURSEMENT ACCOUNT:**

District shall have the right to audit the excess costs submitted by installer, and to approve for reimbursement only so much thereof as it determines to be just and reasonable. District's determination of such excess cost as herein provided shall be final and conclusive. Such excess cost, if any, shall be computed when said line is completed by installer and accepted by District, and said amount shall be credited in the name of the installer to the installer's Reimbursement Account for the segment or segments of the sewerage system constructed by installer.

**9002. SOURCE OF REIMBURSEMENT FUNDS:**

- A. Oversizing (In-Tract and Off Tract) - Upon acceptance of the oversize lines by the District, the District will deposit in the Installer's Reimbursement Account the excess costs involved in installing oversize lines as described in Section 9000(a).
- B. In-Tract and Off Tract Sewers - Funds for reimbursement of in-tract and off-tract sewers as described in Sections 9000 (b) and 9000(c) shall be obtained from future connections to said sewers (front-foot charges collected in accordance with Section 8200) and from no other source.

**9003. DISBURSEMENT FROM REIMBURSEMENT ACCOUNT:**

Semi-annually all fees credited to each installer's reimbursement account shall be disbursed to installers.

**9004. TERMINATION OF RIGHT TO REIMBURSEMENT:**

The installer shall be carried on said Reimbursement Account until one of the following shall first occur:

- A. Total Reimbursement - Disbursement to Installer of an amount equal to total excess costs approved by District.
- B. Expiration of Agreement - The lapse of ten (10) years from date of acceptance of Transfer of Title by District and District shall not be responsible for advising installer of the expiration date.
- C. Withdrawal - The withdrawal of said sewer lines, or of the property sewered thereby from said Sanitary District. District shall be under no obligation to inform installer of such withdrawal.

Upon occurrence of (b) or (c) above, District shall succeed to the reimbursement credit to the installer, and shall be entitled to all payment due thereon.

## **CHAPTER X ENFORCEMENT**

### **10000. VIOLATION:**

Any person found to be violating any provision of this Code or any other ordinance, rule or regulation of the District shall be served by the Manager or other authorized person with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. Said time limit shall not be less than two nor more than seven working days. The offender shall, within the period of time stated in such notice, permanently cease all violations. All persons shall be held strictly responsible for any and all acts of agents or employees done under the provisions of this Code or any other ordinance, rule or regulation of the District. Upon being notified by the Manager of any defect arising in any sewer or of any violation of this Code, the person or persons having charge of said work shall immediately correct the same.

### **10001. PUBLIC NUISANCE:**

Continued habitation of any building or continued operation of any industrial facility in violation of the provisions of this Code or any other ordinance, rule or regulation of the District is hereby declared to be a public nuisance. The District may cause proceedings to be brought for the abatement of the occupancy of the building or industrial facility during the period of such violation.

### **10002. DISCONNECTION:**

As an alternative method of enforcing the provisions of this Code or any other ordinance, rule or regulation of the District, the Manager shall have the power to disconnect the user or subdivision sewer system from the sewer mains of the District. Upon disconnection the Manager shall estimate the Cost of disconnection from and reconnection to the system, and such user shall deposit the cost, as estimated, of disconnection and reconnection before such user is reconnected to the system. The Manager shall refund any part of the deposit remaining after payment of all costs of disconnection and reconnection.

### **10003. PUBLIC NUISANCE, ABATEMENT:**

During the period of such disconnection, habitation of such premises by human beings shall constitute a public nuisance, whereupon the District shall cause proceedings to be brought for the abatement for the occupancy of said premises by human beings during the period of such disconnection. In such event, and as a condition of reconnection, there is to be paid to the District a reasonable attorney's fee and cost of suit arising in said action.

### **10004. CORRECTION OF VIOLATION:**

In order to enforce the provisions of this Code or any other ordinance, rule or regulation of the District, the District may correct any violation. The cost of such correction may be added to any sewer service charge payable by the person violating this Code or any other ordinance, rule or regulation, or the owner or tenant of the property upon which the violation occurred,

and the District shall have such remedies for the collection of such costs as it has for the collection of sewer service charges. The District may also petition the superior court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, restraining any person from the continued violation of any ordinance of the District.

**10005. SUSPENSION OF SERVICES:**

When deemed necessary by the District Manager for the preservation of public health or safety or for the protection of public or private property, he may suspend sewer service 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 after notice to said person or persons."

**10006. MEANS OF ENFORCEMENT ONLY:**

The District hereby declares that the foregoing procedures are established as a means of enforcement of the terms and conditions of this Code or any other ordinances, rules and regulations, and not as a penalty.

**10007. MISDEMEANOR:**

Section 6523 of the Health and Safety Code of the State of California provides that a violation of a regulation or ordinance of a district is a misdemeanor punishable by imprisonment in the county jail not to exceed 30 days, or by a fine not to exceed One Thousand Dollars (\$1,000), or by both. Each and every connection or occupancy in violation of the ordinances and regulations of the District shall be deemed a separate violation and each and every day or part of a day a violation of the ordinance or regulation continues shall be deemed a separate offense hereunder and shall be punishable as such.

**10008. PRETREATMENT OF INDUSTRIAL WASTE:**

Section 54739 of the Government code of the State of California provides that the District may require any of the following:

- A. Pretreatment of any industrial waste which the District determines is necessary in order to meet standards established by the federal or California state government or other regulatory agencies or which the District determines is necessary in order to protect the treatment works or the property and efficient operation thereof or the health or safety of its employees or the environment.
- B. The prevention of the entry of such industrial waste into the collection system and treatment works.
- C. The payment of excess costs to the system for supplementary treatment plants, facilities, or operations needed as a result of allowing the entry into the collection system and treatment works of such industrial waste.

The provisions of Section 54739 shall be in addition to other requirements provided for in the rules, regulations and ordinances of the District.

**10008.1 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE:**

The Director is authorized to publish annually, a list of the significant industrial users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance is defined in the Code of Federal Regulations, 40 CFR 403.8.

**10009. CIVIL LIABILITY:**

Section 54740 of the Government Code of the State of California provides:

- A. Any person who violates any requirement adopted or ordered by the District pursuant to paragraph (1) or (2) of subdivision (a) of Section 54739 of said Government Code may be civilly liable in a sum not to exceed Twenty-Five Thousand Dollars (\$25,000.00) a day for each violation.
- B. The District may petition the superior court to impose, assess and recover such sums. In determining the amount, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the economic benefit derived through any noncompliance, the nature and persistence of the violation, the length of time over which the violation occurs, and corrective action, if any, attempted or taken by the discharger.
- C. Remedies hereunder are in addition to and do not supersede or limit any and all other remedies, civil or criminal, but no liability shall be recoverable hereunder for any violation for which liability is recovered under Section 54740.5 of said Government Code.

**10010. LIABILITY FOR VIOLATION:**

Any person violating any of the provisions of this Code or any other ordinances, rules or regulations of the District shall become liable to the District for any expense, loss or damage occasioned by the District by reason of such violation.

**CHAPTER XI  
MISCELLANEOUS PROVISIONS**

**11000. PROTECTION FROM DAMAGE:**

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the District's sewage works. Any person violating this provision shall be subject to the penalties provided by law.

**11001. POWERS AND AUTHORITIES OF INSPECTORS:**

The officers, inspectors, manager and any duly authorized representative of the District shall wear or carry an official badge of office or other evidence establishing his position as such and upon exhibiting the proper credentials and identification shall be permitted to enter in and upon any and all buildings, industrial facilities and properties for the purpose of inspection, reinspection, observation, measurement, sampling, testing or otherwise performing such duties as may be necessary in the enforcement of the provisions of this Code and any other ordinances, rules and regulations of the District.

**11002. RELIEF ON APPLICATION:**

When any person, by reason of special circumstances, is of the opinion that any provision of this Code is unjust or inequitable as applied to his premises, he may make written application to the Board, stating the special circumstances, citing the provisions complained of, and requesting suspension or modification of that provision as applied to his premises.

If such application be approved, the Board may, by resolution, suspend or modify the provision complained of, as applied to such premises, to be effective as of the date of the application and continuing during the period of the special circumstances.

**11003. RELIEF ON OWN MOTION:**

The Board may, on its own motion, find that by reason of special circumstances any provision of this regulation and Code should be suspended or modified as applied to a particular premise and may, by resolution, order such suspension or modification for such premises during the period of such special circumstances, or any part thereof; provided that no relief as to provisions imposed upon the District by higher authority may be granted by the Board hereunder without the consent of the higher authority having jurisdiction thereover.

**ORDINANCE NO. 98**

**AN ORDINANCE OF THE CUPERTINO SANITARY DISTRICT  
AMENDING SECTION 3000.A OF THE OPERATIONS CODE  
PERTAINING TO REGULAR MEETINGS OF THE DISTRICT BOARD**

**The District Board of the Cupertino Sanitary District, Santa Clara County, California, hereby ordains as follows:**

**SECTION 1:** Paragraph A of Section 3000 of the Cupertino Sanitary District Operations Code is amended to read as follows:

**3000. BOARD MEETINGS:**

- A. **Regular Meetings.** The regular meetings of the Board shall be held on the first and third Wednesdays of each and every calendar month at the hour of 7:30 P.M.

**SECTION 2:** Upon adoption this Ordinance shall be entered in the minutes of the Board and published once in the Cupertino Courier and the Saratoga News, being newspapers of general circulation in the District. This Ordinance shall become effective upon expiration of the week of publication.

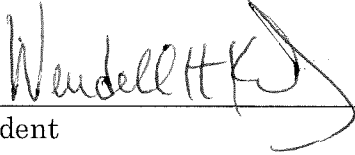
**PASSED AND ADOPTED** at a regular meeting of the District Board of the Cupertino Sanitary District held on the 17<sup>th</sup> day of February, 2010, by the following vote:

AYES: Kerr, Bosworth, Ghatto, Lee and Andrews

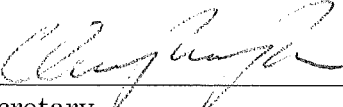
NOES: None

ABSTAIN: None

ABSENT: None

  
\_\_\_\_\_  
President

ATTEST:

  
\_\_\_\_\_  
Secretary

## ORDINANCE NO. 100

### AN ORDINANCE OF THE CUPERTINO SANITARY DISTRICT ADDING ARTICLE 4 TO CHAPTER IV OF THE OPERATIONS CODE CONCERNING INFORMAL BIDDING PROCEDURES

The Sanitary Board of the Cupertino Sanitary District, Santa Clara County, California, hereby ordains as follows:

**SECTION 1:** A new Article 4 is added to Chapter IV of the Operations Code, entitled "Informal Bidding Procedures," to read as follows:

#### Article 4 INFORMAL BIDDING PROCEDURES

##### 4400 AUTHORITY AND PURPOSE OF ARTICLE

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

##### 4401 DEFINITIONS

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section, unless the context or the provision clearly requires otherwise:

- A. "Commission" means the California Uniform Construction Cost Accounting Commission, as established under Section 22020 et seq. of the Public Contract Code.
- B. "Public Contract Code" means the Public Contract Code of the State of California
- C. "Public project" means any of the following, excluding maintenance work:
  - 1. Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any facility owned, leased, or operated by the District.

2. Painting or repainting of any facility owned, leased, or operated by the District.
- D. "Maintenance work" includes all of the following:
1. Work performed to keep, operate and maintain the District's sanitary sewer system, including routine, recurring, and usual work for the preservation or protection of any facility owned or operated by the District for its intended purpose.
  2. Minor repainting.
  3. Landscape maintenance.
- E. "Facility" means any portion of the District's sanitary sewer system, including sewers, pump stations, plants, buildings, structures, real property, and any improvements thereon.

**4402 LIST OF QUALIFIED CONTRACTORS**

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

**4403 SIZE OF PROJECT; METHOD OF BIDDING**

- A. Public projects of thirty thousand dollars (\$30,000.00) or less may be performed by the employees of the District or the District Manager by force account, by negotiated contract, or by purchase order, or the District Manager may elect to follow the informal bidding procedure specified in Paragraph B of this Section.
- B. Public projects of one hundred twenty-five thousand dollars (\$125,000.00) or less may be let to contract by informal bidding procedures set forth in this Article.
- C. Public projects of more than one hundred twenty-five thousand dollars (\$125,000.00) shall, except as otherwise provided in this Article, be let to contract by formal bidding procedure.

**4404 NOTICE INVITING INFORMAL BIDS**

- A. Where the District proposes to award a contract for a public project pursuant to the informal bidding process, a notice inviting informal bids shall either be:

1. mailed to all contractors for the category of work to be bid, as shown on the list of qualified contractors maintained by the District in accordance with Section 4402 of this Article; or
  2. mailed to the required construction trade journals for Santa Clara County designated by the Commission pursuant to Section 22036 of the Public Contract Code.
- B. At the discretion of the District Manager, additional notices inviting informal bids may be given by any or all of the following means:
1. The notice may be mailed to both the qualified contractors and the construction trade journals;
  2. The mailed notice may be sent to additional contractors who are not on the District's list but are deemed by the District Manager to be qualified to perform the particular work out for bid;
  3. The notice may be mailed to any additional construction trade journals or other publications selected by the District Manager, including trade journals designated by the Commission as optional for Santa Clara County.
- C. All mailing of the notices to contractors and construction trade journals shall be completed not less than ten (10) calendar days before bids are due.
- D. The notice inviting informal bids shall describe the project in general terms and how to obtain more detailed information about the project, and shall state the time and place for submittal of bids.
- E. Notwithstanding the foregoing provisions of this Section, no mailing of a notice to contractors or construction trade journals shall be required where the District Manager determines that the product or service to be acquired by the District is proprietary.

**4405**

**AWARD OF CONTRACTS**

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

bidder, if the Board determines that the District's original cost estimate for the project was reasonable.

**4406 EMERGENCY CONTRACTS**

The provisions of this Article shall in no way limit or restrict the ability of the District to perform emergency repair or replacement work without adopting plans, specifications, or working details, or giving notice for bids to let contracts, as authorized by Section 22035 of the Public Contract Code, and in accordance with the emergency contracting procedures set forth in Chapter 2.5 (commencing with Section 22050) of the Public Contract Code.

**SECTION 2:** Upon adoption this Ordinance shall be entered in the minutes of the Sanitary Board and a summary of this Ordinance prepared by the District Counsel shall be published once in the Cupertino Courier and the Saratoga News, being newspapers of general circulation in the District. A certified copy of the full text of this Ordinance shall be posted in the office of the District Clerk.

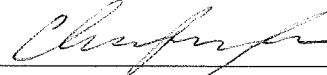
**SECTION 3:** This Ordinance shall become effective upon expiration of the week of publication.

**PASSED AND ADOPTED** at a regular meeting of the Sanitary Board of the Cupertino Sanitary District held on the 7th day of July, 2010, by the following vote:

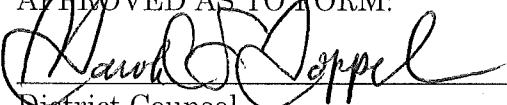
AYES: Bosworth, Gatto, Lee, Kerr Jr. and Andrews  
NOES: None  
ABSTAIN: None  
ABSENT: None

  
\_\_\_\_\_  
President of the Sanitary Board

ATTEST:

  
\_\_\_\_\_  
Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
District Counsel

**ORDINANCE NO. 101**

**AN ORDINANCE OF THE CUPERTINO SANITARY DISTRICT  
AMENDING SECTIONS 7001, 7002 AND 7003 OF CHAPTER VII OF  
THE CUPERTINO SANITARY DISTRICT OPERATIONS CODE  
RELATING TO SEWER SERVICE CHARGES**

**The Sanitary Board of the Cupertino Sanitary District, Santa Clara County, California, hereby ordains as follows:**

**SECTION 1:** Sections 7001, 7002, and 7003 in Chapter VII of the Operations Code are amended to read as follows:

**7001. CHARGE FOR SINGLE FAMILY UNITS:**

Each Single Family Unit (as defined in Section 2066.B) shall be charged Three Hundred Dollars (\$330.00) per year.

**7002. CHARGES FOR PARTICULAR UNITS:**

A. Each Unit (as defined in Section 2066.A) of the particular uses listed below shall be charged Four Dollars and 37/100<sup>ths</sup> Cents (\$4.37) per year, plus an additional annual service charge per hundred cubic feet (HCF) of sewage discharged, to be determined by the District Manager in accordance with the annual use of water by each Unit times the applicable rate to be determined by the District Manager as follows:

<u>Type of Use:</u>	<u>Service Charge:</u>
Auto Repair Shops & Service Stations	\$2.70 /HCF
Car Washes	\$2.25 /HCF
Domestic Laundry	\$2.43 /HCF
Machinery Manufacturers	\$3.95 /HCF
Motels or Hotels without Food Service	\$2.75 /HCF
Motels or Hotels with Food Service	\$4.62 /HCF
Retirement Homes with Common Dining Facilities	\$5.20 /HCF
Convalescent Hospitals	\$2.61 /HCF
Printing Plants	\$4.65 /HCF
Restaurants	\$5.63 /HCF
Retail or Professional Office	\$2.47 /HCF
Schools, Colleges, Day Care Facilities	\$3.51 /HCF

- B. Minimum Charge: In no event shall the annual service charge levied upon any Unit of the uses listed in Paragraph A above, be less than seventy-five percent (75%) of the service charge for a Single Family Unit, as set forth in Section 7001 of this Chapter.
- C. Where different types of Units are serviced by the same water meter, the District Manager shall estimate the quantity of discharge material produced by each type of Unit and calculate the additional service charge applicable to each type of Unit based upon the estimated discharge from that Unit.
- D. Whenever the District Manager determines that a Unit has been inappropriately classified as one of the types listed in Paragraph A of this Section, the District Manager may reclassify such Unit to another of the types listed in Paragraph A of this Section or require that the annual service charge for such Unit be calculated in accordance with the provisions of Section 7003 of this Chapter. Any increase or decrease in the annual service charge for the affected Unit resulting from the reclassification shall be prospective only and implemented on the next regular billing by the District for annual sewer charges. No discharger shall be entitled to a retroactive refund of charges paid, or liable for payment of additional charges, for any period prior to the effective date of the reclassification.

**7003. CHARGES FOR ALL OTHER UNITS**

- A. For each Unit not listed in Section 7002, the annual service charge shall be the sum of the annual Capital Cost Recovery Charge and the annual Maintenance and Operation Cost Recovery Charge, as determined by the District Manager, calculated as follows:

- (1) Capital Cost Recovery Charge:

Infiltration/Inflow (I/I)	\$4.99 per year for each unit; <i>plus</i>
Flow	\$215,482.58 per year for each million gallons per day of sewage treatment plant capacity required to treat the sewage discharged from the Unit into the sanitary sewer system; <i>plus</i>
Biochemical Oxygen Demand (BOD)	\$31,465.92 per year for each thousand pounds per day of sewage treatment plant capacity required to remove the biochemical oxygen demand contained in sewage discharged from the Unit into the sanitary sewer system; <i>plus</i>
Suspended Solids (SS)	\$29,088.66 per year for each thousand pounds per day of sewage treatment plant

capacity required to remove the suspended solids contained in the sewage discharged from the Unit into the sanitary sewer system; *plus*

Ammonia (NH<sub>3</sub>) \$95,484.33 per year for each thousand pounds per day of sewage treatment plant capacity required to remove ammonia contained in the sewage discharge from the Unit into the sanitary sewer system.

(2) Operation and Maintenance Cost Recovery Charge:

Flow \$1,876.06 for each million gallons per year of sewage discharged from the Unit into the sanitary sewer system; *plus*

Biochemical Oxygen Demand (BOD) \$213.58 for each thousand pounds per year of biochemical oxygen demand discharged from the Unit into the sanitary sewer system; *plus*

Suspended Solids (SS) \$278.90 for each thousand pounds per year of suspended solids discharged from the Unit into the sanitary sewer system; *plus*

Ammonia (NH<sub>3</sub>) \$2,302.75 for each thousand pounds per year of ammonia discharged from the Unit into the sanitary sewer system.

B. In determining the Capital Cost Recovery Charge and the Operation and Maintenance Cost Recovery Charge, the District Manager may utilize information on the content of discharges from particular Units provided by the treatment Plant, or other source of information deemed by the District Manager to be appropriate, or actual grab samples of such discharges taken by the District, or any combination thereof. The District Manager is authorized to modify the annual service charge from time to time, based upon such information and samples; *provided, however*, any increase or decrease in the annual service charge shall be prospective only and implemented on the next regular billing by the District for annual sewer charges. No discharger shall be entitled to a retroactive refund of charges paid, or liable for payment of additional charges, for any period prior to the effective date of the modification.

C. Where multiple Units having different flow content are serviced by the same water meter, the District Manager shall allocate the Capital Cost Recovery Charge and the Operation and Maintenance Cost Recovery Charge between each individual Unit based upon his estimate of the discharge material produced by each Unit.

**SECTION 2:** Upon adoption this Ordinance shall be entered in the minutes of the Sanitary Board and a summary of this Ordinance prepared by the District Counsel shall be published once in the Cupertino Courier and the Saratoga News, being newspapers of general circulation in the District. A certified copy of the full text of this Ordinance shall be posted in the office of the District Clerk.

**SECTION 2:** This Ordinance shall become effective upon expiration of the week of publication.

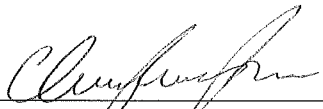
**PASSED AND ADOPTED** at a regular meeting of the Sanitary Board of the Cupertino Sanitary District held on the 4<sup>th</sup> day of May, 2011, by the following vote:

AYES: Kerr, Jr., Bosworth, Gatto, Lee and Andrews

NOES: None

ABSTAIN: None

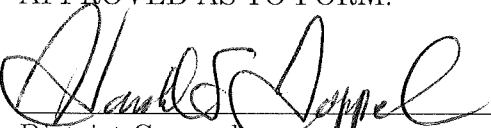
ABSENT: None

  
\_\_\_\_\_  
President of the Sanitary Board

ATTEST:

  
\_\_\_\_\_  
Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
District Counsel