



**NapaSan**

# District Code

Updated through Ordinance 111

October 18, 2019

# Napa Sanitation District Code

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# Napa Sanitation District Code

## Title 1 – General Provisions

### 1.01 Code Adoption

#### 1.01.010 Adoption

Pursuant to the provisions of Sections 50022.1 through 50022.8 and 50022.10 of the California Government Code, there is adopted the “Napa Sanitation District Code,” together with those secondary codes adopted by reference as authorized by the California State Legislature, save and except those portions of the secondary codes as are deleted or modified by the provisions of the “Napa Sanitation District Code.”

#### 1.01.020 Title—Citation—Reference

This code shall be known as the “Napa Sanitation District Code” and it shall be sufficient to refer to said code as the “Napa Sanitation District Code” or “NSD Code,” or sometimes referred to as “this code” or “the code,” in any prosecutions for the violation of any provisions thereof or in any proceedings at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correcting or repealing all or any part or portion thereof as an addition to, amendment to, correction or repeal of the “Napa Sanitation District Code.” Further reference may be had to the titles, chapters, sections and subsections of the “Napa Sanitation District Code” and such references shall apply to that numbered title, chapter, section or subsection as it appears in the code.

#### 1.01.030 Codification authority

This code consists of all the regulatory, penal ordinances and administrative ordinances of the Napa Sanitation District, California, codified pursuant to the provisions of Sections 50022.1 through 50022.8 and 50022.10 of the California Government Code.

#### 1.01.040 Ordinances passed prior to adoption of the code

The last ordinance included in the initial code is Ordinance 93, passed September 19, 2012. The following ordinances, passed subsequent to Ordinance 93, but prior to adoption of this code, are adopted and made a part of this code: Ordinance 94.

#### 1.01.050 Subsequent Ordinances

Ordinances passed after the effective date of this ordinance shall be passed as amendments or additions to the Napa Sanitation District Code unless they are of limited or special application, or are otherwise deemed not to be part of the code in which event such ordinances shall be retained by the Board Secretary but separate from the code. Ordinances of limited or special application, or otherwise deemed not to be part of the code, nevertheless shall be enforceable as other ordinances which are part of the code.

**1.01.060 Reference applies to all amendments**

Whenever a reference is made to this code as the “Napa Sanitation District Code” or to any portion thereof, or to any ordinance of the Napa Sanitation District, California, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made.

**1.01.070 Chapter and section headings**

Title, chapter and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section hereof.

**1.01.080 Reference to specific ordinances**

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

**1.01.090 Effect of code on past actions and obligations**

Neither the adoption of this code nor the repeal or amendments hereby of any ordinance or part or portion of any ordinance of the Napa Sanitation District shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee or penalty as said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of said ordinances related to the collection of any such license, fee or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond, or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance and all rights and obligations thereunder appertaining shall continue in full force and effect.

**1.01.100 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 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, 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.

**1.01.110 Authority to correct scrivener’s clerical errors**

The Board Secretary is authorized to make necessary corrections to any ordinance before, during or following codification, including, but not limited to, the correction of scrivener’s clerical errors, references, ordinance numbering, section/subsection numbering and any references thereto.



### **1.01.120 Effective date**

This code shall become effective on the date the ordinance adopting this code as the “Napa Sanitation District Code” shall become effective.

## **1.02 Definitions**

### **1.02.010 Definitions**

**Accessory Dwelling Unit (ADU)** – shall mean a small dwelling unit that is attached or detached from the single-family dwelling unit (the Principal Dwelling Unit) that provides complete independent living facilities for one or more persons. It includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel that the single-family dwelling is situated. An ADU is available for rent and is not intended for sale separate from the principal dwelling unit. This definition is intended to be consistent with the City of Napa definition for Accessory Dwelling Units.

**Act** - shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act (CWA), as amended, 33 U.S.C.1251 et seq. (40CFR 403).

**Actual Peak Day EDU** – shall mean the maximum daily loading occurring in a 24-hour monitoring period.

**Administrator** – shall mean the Administrator of the United States Environmental Protection Agency.

**Algaecide** – shall mean a chemical agent specifically designed and used to kill or inhibit the growth of algae; also an agent or substance used to prevent or get rid of algae.

**Annexation Fee** – shall mean a fee for the process of inclusion of property into District boundaries by proper legal procedures. Annexations must be processed through the Local Agency Formation Commission.

**Applicable Pretreatment Standard** – shall mean the Federal, State or local discharge limit, whichever is most stringent.

**Applicant** – shall mean the person making application for permit for a sewer or plumbing installation and shall be the owner or his authorized agent of the premises to be served by the sewer for which a permit is requested.

**Approval Authority** – shall mean the Director in an NPDES State with an approved State pretreatment program and the appropriate EPA Regional Administrator in a non-NPDES State or NPDES State without an approved State pretreatment program (40 CFR 403.3). The Approval Authority approves POTW pretreatment programs, oversees POTW program implementation, and assumes the responsibility of the Control Authority for those POTWs that do not have a pretreatment program. (40CFR 403)

**Approved Laboratory Procedure** – shall mean any method contained in 40CFR Part 136 and amendments thereto or otherwise approved by EPA for the determination of flow measurement or pollutant concentration of discharges to the public sanitary sewer system.

**Attached Accessory Dwelling Unit** – shall mean an Accessory Dwelling Unit that is constructed and contained within the existing space of the single-family residence or accessory structure and has an independent exterior access from the existing residence.

**Authorized or Duly Authorized Representative of the User** – shall mean

(1) If the User is a corporation:

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

(b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

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

(4) The individuals described in paragraphs 1 through 3, above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the District.

**Auxiliary Building** – shall mean any secondary or supporting structure to a facility located on a non-residential parcel required to be connected to the sanitary sewer system.

**Average Daily Flow Peak Month** – shall mean the average loading for any calendar month by calculating sewer service units as determined in this Ordinance. The peak month is the month with the greatest calculated sewer service units.

**Average Monthly EDU** – shall be calculated using the average daily flow, BOD, and TSS for a calendar month monitoring period.

**Bactericide** – shall mean a chemical agent specifically designed and used to kill or inhibit the growth of bacteria.

**Baseline Monitoring Report (BMR)** – shall mean a report submitted by categorical Industrial Users within 180 days after the effective date of an applicable categorical standard, or 180 days after the final administrative decision made upon a category determination submission under 40CFR 403, whichever is later, which indicates the compliance status of the user with the categorical standard. (40CFR 403)

**Bed and Breakfast Facility** – shall mean a building that generally contains eight or less guest rooms which provides meals for guests, and is managed and occupied by the owner of the property.

**Beneficial Uses** – shall mean uses of the waters of the State that may be protected against quality degradation including domestic, municipal, agricultural and industrial supply, power generation, recreation, esthetic enjoyment, navigation and the preservation and enhancement of fish, wildlife and other aquatic resources or reserves, and other uses, both tangible or intangible as specified by Federal or State law.

**Best Management Practices or BMPs** – shall mean schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40CFR 403. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

**Best Professional Judgment or BPJ** – shall mean the highest quality technical opinion of a permit writer, after consideration of all reasonably available and pertinent data or information, is forming the basis for the terms and conditions of a permit.

**Bioassay or Aquatic Toxicity Test** – shall mean a procedure in which the responses of aquatic organisms are used to detect or measure the presence or effect of one or more substances, wastes, or environmental factors, alone or in combination.

**Biochemical Oxygen Demand (BOD)** – shall mean a measurement of the amount of oxygen utilized in a wastewater sample, during the decomposition of organic and inorganic material and nitrogenous species.

**Board** – shall mean the Board of Directors of the Napa Sanitation District.

**Building** – shall mean any structure used for human habitation or a place of business, recreation or other purposes.

**Building Lateral or House Lateral or Private Lateral** – shall mean that portion of a side sewer beginning at the plumbing or drainage outlet of any building or industrial facility and running to the property line, easement line, or to a private sewage disposal system. Building laterals are privately owned and maintained.

**Bypass** – shall mean the intentional diversion of wastestreams from any portion of an Industrial User's treatment facility. (40CFR 403)

**Capacity Charge** – shall mean a fee charged to new connections or to existing connections where a change in use or the addition of plumbing fixtures will result in increased discharge, to pay for the sewer and treatment plant capacity allocated to them. If consistent usage exceeds initially purchased allocation, additional fees are due.

**Categorical Industrial User** – shall mean an Industrial User subject to categorical pretreatment standards.

**Categorical Industry** – shall mean an industry that is subject to the Federal Categorical Pretreatment Standards as published by the United States Environmental Protection Agency.

**Categorical Pretreatment Standards** – shall mean any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

**Chain of Custody** – shall mean a written record of sample possession for all persons who handle (collect, transport, analyze, dispose of) a sample, including names, dates, times, and procedures followed.

**Church** – shall mean a structure, which is used as a place of worship for a congregation. If the structure contains living quarters, these shall be regarded as a separate unit chargeable at the single-family dwelling rate for each living unit.

**City** – shall mean the City of Napa, California.

**Clean Water Act (CWA)** – shall mean the same as Act or Federal Water Pollution Control Act. (40CFR 403)

**Closed-Cup Flashpoint** – shall mean an analytical procedure as defined in SW 846. Test can be performed using one of the following methods: a) 1010 Pensky-Marten Closed Cup Tester or b) 1020 Seta/Closed Cup Tester. (40CFR 503).

**Code of Federal Regulations (CFR)** – shall mean a codification of the general and permanent rules published in the *Federal Register* by the executive departments and agencies of the Federal Government. The CFR is divided into 50 titles, which represent broad areas subject to Federal regulation. EPA's regulations are in Title 40. Each title is divided into chapters, which usually bear the

name of the issuing agency. Each chapter is further subdivided into parts covering specific regulatory areas. Large parts may be subdivided into subparts. All parts are organized in sections, and most citations to the CFR are provided at the section level.

**Combined Wastestream Formula (CWF)** – shall mean a procedure under EPA’s pretreatment regulations for calculating alternative discharge limits at industrial facilities where a regulated waste stream from a categorical industrial user is combined with other waste streams prior to treatment. (40CFR 403)

**Commercial Unit** – shall mean a single business or tenant in a structure or structures on a parcel. A structure may contain several commercial units because each separate business or tenant shall be counted as a commercial unit.

**Commercial Discharge** – shall mean any waste discharged to the sanitary sewer from businesses, light industrial and permitted ground water. This excludes domestic, stormwater, and significant industrial users.

**Compatible Pollutant** – shall mean biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus additional pollutants identified in the District's National Pollutant Discharge Elimination System (NPDES) Permit if the District's treatment works was designed to treat such pollutants, and in fact does remove such pollutants to a substantial degree.

**Concentration Limit** – shall mean a limit based on the mass of pollutant per unit volume, usually expressed in milligrams (mg) or micrograms (µg) per liter.

**Condominium** – shall mean an estate in real property consisting of an undivided interest in common in a portion of real property together with a separate interest in space or a portion of such real property in a residential, industrial, or commercial building or such real property, such as an apartment, office or store.

**Condo - Hotel** – shall mean a facility meeting the definition of a hotel with ownership structured as a condominium, cooperative or other ownership/financing arrangement that is similar in function and/or operation, but shall not include timeshares in or interval or fractional ownership of a hotel.

**Confidential Business Information** – shall mean information and data on a discharger including products used, industrial processes or methods of projection, etc., which the discharger can demonstrate, to the satisfaction of the General Manager, constitute trade secrets. Effluent constituents and characteristics shall not be considered confidential information.

**Connection** – shall mean the physical union of a pipe or other sewer appurtenance to a new or existing pipe or other sewer appurtenance.

**Consistent Compliance** – shall mean an industrial user that has had no violations or had no more than one parameter in violation if that value was less than twice the most stringent limit and within 45 days of the date of violation (sample date), the industrial user has been notified of compliance status,

resampled, and determined in compliance with the parameter that was violated and the apparent cause of violation has been identified and corrected.

**Contamination** – shall mean an impairment of the quality of the water of the State by waste to a degree, which creates a hazard to the public health through poisoning or through the spread of disease. Contamination shall include any equivalent effect resulting from the disposal of wastewater, whether or not waters of the State are affected.

**Contractor** – shall mean an individual, firm, corporation, partnership or association duly licensed by the State of California to perform the type of work to be done under the permit.

**Contributing Industry** – shall mean any wastewater contributor identified in the 1987 Standard Industrial Classification (SIC) Manual and subsequent revisions in any of its Divisions.

**Control Authority** – shall mean the POTW if the POTW’s submission for its pretreatment program has been approved in accordance with the requirements of 40 CFR 403. The Control Authority is responsible for implementing the pretreatment program, including establishment of control mechanisms for compliance assessment and enforcement of national standards, categorical standards, and local limits. The District is the approved Control Authority.

**Conventional Pollutants** – shall mean conventional pollutants as defined by Federal law, these include BOD, TSS, fecal coliform bacteria, oil and grease, and pH. (40CFR 401)

**County** - shall mean the County of Napa, California.

**Cyanide** – shall mean an elemental complex which can exist as an un-dissociated hydrogen cyanide, free cyanide and anionic complexes of cyanide with a variety of metal cations. Commonly found in the form of cyanide salts (i.e., Sodium Cyanide, Potassium Cyanide etc.) completely dissociated in water into various anionic cyanide complexes.

**Daily Maximum Limit** – shall mean the maximum allowable discharge of pollutant during a calendar day. Where daily maximum limitations are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limitations are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

**Daily Maximum Uniform-Concentration Limit** – shall mean the maximum allowable concentration of a pollutant determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

**Day(s)** – shall mean calendar day(s).

**Definition of Words** – whenever, in these specifications, the words directed, required, permitted, ordered, designated or words of like import are used, they shall be understood to mean the direction, requirement, permission, order or designation of the General Manager. Similarly, the words

approved, acceptable, satisfactory, shall mean approved by, acceptable to, or satisfactory to the General Manager.

**Detached Accessory Dwelling Unit** – shall mean an Accessory Dwelling Unit that is constructed either to expand the footprint of the existing single-family residence or accessory structure, or to be a new accessory structure on the parcel.

**Development Document** – shall mean a detailed report of studies conducted by the U.S. EPA for the purpose of developing categorical pretreatment standards.

**Director** – shall mean the chief administrative officer of a State or Interstate water pollution control agency with an NPDES permit program pursuant to Section 402(b) of the Act and an approved State pretreatment program. (40CFR 403)

**Discharge Permit** – shall mean any written authorization required pursuant to this or any other regulation of the District for the discharge from a contributing industry.

**District** – shall mean Napa Sanitation District (NSD).

**Domestic Sanitary Sewage** – shall mean water-carried wastes from residences, hotels, motels, and non-process wastewater from business establishments, but excluding all ground water, surface water, storm water, commercial, and industrial wastes.

**Drainage Fixture Unit Values (DFU)** – shall mean the fixture unit load values for drainage piping as computed from tables of the most recent version of the Uniform Plumbing Code.

**Enforcement Response Plan (ERP)** – shall mean the plan describing the procedures to be used by the Napa Sanitation District (District) to identify, investigate, document, and respond to instances of Industrial User (IU) non-compliance. In a step-by-step fashion, the ERP also summarizes the procedures to be followed by District staff to identify, document, and respond to pretreatment violations. This ERP provides guidance in selecting initial and follow-up enforcement actions, indicates staff responsibilities for these actions, and specifies appropriate time frames in which to take enforcement actions. The purpose of the ERP is to ensure that IUs are in compliance with Pretreatment Program requirements and that IUs are treated fairly in the event that regulations need to be enforced.

**Environmental Protection Agency (EPA)** – shall mean the U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

**Equivalent Dwelling Unit (EDU)** – shall mean the combination of flow and strength of a wastestream that is equivalent to the waste discharged from a single family home. This is often evaluated on a per day basis.

**Fats, oils and grease (FOG)** – Organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR 136, as may be amended from time to time. All are sometimes referred to herein as “grease” or “FOG.” Petroleum based oils are prohibited and not included in the definition of fats, oil and grease.

**Federal Act** – shall mean the Federal Water Pollution Control Act, PL 92-500, and any amendments thereto; as well as any guidelines, limitations and standards promulgated by the Environmental Protection Agency pursuant to the act.

**Federal Categorical Pretreatment Standards** – shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Clean Water Act (33 U.S.C. 1317).

**Flashpoint** – shall mean the minimum temperature at which a liquid forms a vapor above its surface in sufficient concentration to be ignited. Legally defined by the terms of the specific test procedures used to determine the flash point and boiling point of the liquid. The lowest temperature at which vapor combustion will propagate away from its source of ignition.

**Flow Equalization** – shall mean any method employed by the industry that reduces peak daily flow, BOD, and SS to within allowable limits, as determined by the General Manager.

**Flow Proportional Composite Sample** – shall mean a sampling method, which combines discrete aliquots of a sample collected over time, based on the flow of waste stream being sampled. There are two methods used to collect this type of sample. One method collects a constant sample volume at time intervals, which vary based on the stream flow [i.e., 200 milliliters (ml) sample collected for every 5,000 gallons discharged]. The other method collects aliquots of varying volume, based on stream flow, at constant time intervals.

**Flow-Weighted Averaging Formula (FWA)** – shall mean a procedure used to calculate alternative limits where wastestreams regulated by a categorical pretreatment standard and non-regulated wastestreams combine after treatment but prior to the monitoring point.

**FOG Receiving Station** – The collection of devices and structures at the Napa Sanitation District’s Soscol Water Recycling Facility that has specifically been designed and installed for the collection of FOG from waste haulers with the purpose of introduction of the FOG into the District’s digester to increase biogas production.

**Food Service Establishments (FSE)** – Those establishments primarily engaged in activities of preparing, serving or otherwise making foodstuffs available for consumption.

**Fungicide** – shall mean a chemical agent specifically designed and used to kill or inhibit the growth of fungi or their spores.



**Garbage** – shall mean solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

**General Manager** – shall mean the person appointed by the Board to administer and enforce the rules and regulations of District.

**Government Buildings** – shall mean buildings for governmental agencies, such as Federal, State, County, City and Special Districts.

**Grab Sample** – shall mean a sample, which is taken from a waste stream on a one-time basis with no regard to the flow of the waste stream, with a sample collection time not to exceed fifteen (15) minutes.

**Grease Interceptor, Gravity Grease Interceptor, or Vault** – shall mean a device designed to retain grease to serve one or more fixtures and is typically an outside unit.

**Grease Trap or Hydromechanical Grease Interceptor** – shall mean a device designed to retain grease from one to a maximum of four fixtures and is typically an inside unit.

**Hauled Waste** – shall mean any permitted waste transported by vehicle directly to a Napa Sanitation District POTW Treatment facility. This includes, but not limited to the following types of waste; domestic, portable toilet waste, restaurant waste, winery waste, treated waste, domestic holding tank waste, restaurant holding tank waste, winery holding tank waste and disinfecting water waste. This does not include prohibited wastes as defined by section 706 "Prohibited Wastes" of this ordinance.

**Herbicide** – shall mean a chemical agent specifically designed and used to kill or inhibit the growth of plants, primarily weeds.

**Holding Tank Waste** – shall mean any waste from holding tanks, including but not limited to: vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

**House Lateral** – see Building Lateral.

**Hotel or Motel Unit** – shall mean an individual sleeping quarter, which is used, rented or hired out for occupation for sleeping purposes by guests. Multiple rooms connected by interior doors shall each be considered a unit if they can be rented separately. A Hotel or Motel unit may or may not contain cooking facilities.

**Incompatible Pollutant** – shall mean any pollutant, which is not a "compatible pollutant" as defined in this section.

**Indirect Discharge or Discharge** – shall mean the introduction of pollutants into a POTW from any non-domestic source regulated under section 307(b), (c), or (d) of the Act. (40CFR 403)

**Industrial Discharger** – shall mean a source of discharge to the public sanitary sewer system from any non-domestic source as regulated under Section 307 (b), (c) or (d) of the Clean Water Act.

**Industrial User (IU) or User** – shall mean a source of Indirect Discharge. (40CFR 403)

**Industrial User Management Practices** – shall mean schedules of activities, prohibitions or practices, maintenance procedures, and other management practices designed to prevent or reduce pollution discharges. These practices may address treatment requirements, operating procedures, and practices to control spills or leaks, sludge or waste disposal, or drainage from raw material storage.

**Industrial Wastes** – shall mean the wastes of producing, manufacturing and processing operations of every kind and nature. It does not include domestic sanitary sewage, such as might be discharged from residences, hotels, motels, restaurants or business establishments.

**Insecticide** – shall mean a chemical agent specifically designed and used to kill insects.

**Insignificant Industrial User** – shall mean an industry or commercial establishments which have only domestic wastewater or that have no industrial waste flow into the District’s sewerage system.

**Insignificant Violation** – shall mean an industrial user that has had more than one parameter in violation or any one parameter in violation that exceeds twice the most stringent limit and within 45 days of the date of violation (sample date), the industrial user has been notified of compliance status, resampled to determine compliance status, but does not fall within the significant violation classification.

**Interceptor** – shall mean a device designed and installed so as to separate and retain deleterious, hazardous, or undesirable matter from normal waste and permit normal sewage or liquid waste to discharge into the disposal terminal by gravity.

**Interference** – shall mean a discharge which, alone or in conjunction with a discharge or discharges from other sources, both: inhibits or disrupts the POTW; its treatment processes or operations; or its sludge processes, use or disposal; and therefore is a cause of a violation of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with specified Federal statutes, regulations, or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II more commonly Referred to as the Resource Conservation and Recovery Act (RCRA) and including State regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.(40CFR 403)

**Junior Accessory Dwelling Unit (JADU)** – shall mean an Attached Accessory Dwelling Unit that does not exceed 500 square feet, includes an efficiency kitchen, and may either share a bathroom (toilet, sink, and tub and/or shower) with the principal residence or have its own bathroom. The principal residence or the JADU must be occupied by the owner of the residence.

**Kitchen Facility** – shall mean a room or space that contains equipment used in the preparation and cooking of food.

**Lethal Toxicity or Lethal Concentration (LC)** – shall mean a toxicant concentration producing death of test organism(s).

**Live Work Unit** – shall mean a building or space in a building that is designed to provide both living and work accommodations for the occupant.

**Living Unit** – shall mean any structure or portion of a structure constructed for occupancy, which contains kitchen facilities.

**Local Limits** – shall mean technically based, defensible numerical limits imposed on dischargers to the POTW. These limits are developed to comply with the General Pretreatment Regulations.

**Lower Explosion Limit (L.E.L.)** – shall mean the minimum concentration in air at which a gas or vapor will explode or burn in the presence of an ignition source.

**Main Sewer** – shall mean a public sewer designed to accommodate more than one lateral sewer.

**Manifest** – shall mean a manuscript identifying and tracking all hauled wastes. This includes, but is not limited to, IU identification, type and volume of waste, destination, and required signatures.

**Material Safety Data Sheet (MSDS)** – shall mean an information document regarding chemical products and their hazardous nature.

**Maximum Allowable Peak Day EDU** – shall mean 1.5 times the permitted daily EDU during the Peak Month EDU.

**Maximum Month** – shall mean the one month that has the highest average monthly loading.

**“May” – is permissive; “shall” is mandatory**

**Medical Waste** – shall mean the discharge of isolation wastes, infectious agents, human blood and blood byproducts, pathological wastes, sharps, body parts, etiologic agents, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

**Medications** – also known as pharmaceuticals, shall include but not limited to: Prescription drugs such as hormones (birth control pills, estrogen replacement drugs, etc.), antidepressants, and antibiotics; Over-the-counter medications such as pain relievers (aspirin, ibuprofen, etc.), cold/flu remedies, and antiseptics (germ killing liquids); and, veterinary medicines.

**Minor food service** - Shall mean food service that meets the Napa County Department of Environmental Health’s Medium Risk food establishment criteria and includes only pre-cooked and pre-packaged food ingredients. The food preparation areas for minor food service shall not include equipment such as grills or hoods that could be used to prepare food beyond what falls into the Medium Risk food establishment category.

**Mixed Use** – shall mean a building or building complex containing two or more distinctly different types of businesses and/or uses.

**Monitoring Facility** – shall mean a safely accessible facility located at the discharger's connection to the public sanitary sewer system or at the end of an industrial process or pretreatment system, which allows for the inspection, sampling and flow measurement of a discharge.

**Monthly Average** – shall mean the arithmetic mean of the values for effluent samples collected during a calendar month or a District specified thirty (30) day period (as opposed to a rolling thirty (30) day window).

**Monthly Average Limit** – shall mean the maximum allowable value for the average of all observations obtained during one calendar month.

**Multiple Family Dwelling** – shall mean any structure constructed for occupancy of more than one family with each separate living quarter to be referred to as a unit.

**NPDES** – shall mean the National Pollutant Discharge Elimination System (NPDES) is the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of CWA. (40CFR 122)

**NPDES State** – shall mean a State (as defined in 40CFR 122) or Interstate water pollution control agency with an NPDES permit program approved pursuant to section 402(b) of the Act.(40CFR 403)

**National Pretreatment Standard, Pretreatment Standard, or Standard** – shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Clean Water Act, which applies to Industrial Users. This term includes prohibitive discharge limits established pursuant to 40CFR 403, including local limits. (40CFR 403)

**National Prohibited Discharges** – shall mean prohibitions applicable to all non-domestic dischargers regarding the introduction of pollutants into POTWs set forth in 40 CFR 403.5.

**Net/Gross Calculations** – shall mean an adjustment to Categorical Pretreatment Standards to reflect the presence of pollutants in the Industrial User's intake water. (40CFR 403)

**New Source** – shall mean:

(1) 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 the proposed Pretreatment Standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(a) The building, structure, facility or installation is constructed at the site at which no other source is located; or

(b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(c) The production of wastewater generating processes of the building, structure, facility or installation is 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.

2) 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 40CFR 403 but otherwise alters, replaces, or adds to existing process or production equipment.

3) Construction of a new source as defined under this paragraph as commenced if the owner or operator has:

(a) Begun, or caused to begin as part of a continuous on-site construction program:

(i) Any placement, assembly, or installation of facilities or equipment: or

(ii) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment, or

(iii) Entered into a binding 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. (40CFR 403.3)

**Ninety (90)-Day Compliance Report** – shall mean a report submitted by a categorical Industrial User, within 90 days following the date for final compliance with applicable categorical standards, or, in the case of a New Source, following commencement of the introduction of wastewater into the POTW, that documents and certifies the compliance status of the User.(40CFR 403)

**Non-contact Cooling Water** – shall mean the water discharged from any system of heat transfer, condensation, air conditioning, refrigeration, or other sources to which no pollutant is added other than heat.

**Non-conventional Pollutants** – shall mean all pollutants that are not included in the list of conventional or toxic pollutants in 40CFR Part 401

**Non-domestic Waste** – shall mean all water carried wastes not defined as domestic sanitary sewage.

**Non-domestic Wastewater Discharger or Non-domestic Discharger** – shall mean any source of discharge of non-domestic waste to the public sanitary sewer system.

**Occupancy Permit** – shall mean a clearance form issued by the City or County Building Department that allows for the occupancy of a newly constructed building.

**Oil and Grease (Mineral, Vegetable & Animal Based)** – shall mean any material soluble within the extraction solvent, recovered from an acidified sample and not volatilized during the oil & grease analysis method. Standard Methods, Method 5520A, 2005.

**Outside Sewer** – shall mean a sanitary sewer beyond the limits of the District not subject to the control or jurisdiction of the District.

**Pass Through** – shall mean a discharge which exits the POTW into waters of the United States 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 POTW's NPDES permit (including an increase in the magnitude or duration of a violation).(40CFR 403)

**Periodic Compliance Report** – shall mean a report on compliance status submitted at least semiannually by categorical Industrial Users to the Control Authority.(40CFR 403)

**Permit** – shall mean any written authorization required pursuant to this or any other regulation of District.

**Person** – shall mean any human being, individual, firm, company, partnership, association and private or public and municipal corporations, the United States of America, the State of California, districts and all political subdivisions, governmental agencies and mandatories thereof. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

**Pesticide** – shall mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant. (40CFR 152)

**pH** – shall mean the negative logarithmic concentration of hydrogen ions in solution, or the “intensity” factor of acidity. Ph results are reported in standard units (SU). Values greater than 7.0 SU represent alkaline/basic conditions, and less than 7.0 SU represent acidic conditions.

**Phenols** – shall mean hydroxyl derivatives of benzene (an aromatic carbon ring structure), which may occur in domestic and industrial wastewaters. Chlorination of phenol pollutant waters may result in odorous and objectionable-tasting chlorophenols. Ref. Standard Methods, Method 5530, 2005.

**Pollutant of Concern (POC)** – shall mean any pollutant that might reasonably be expected to be discharged to the POTW in sufficient amounts to pass through or interfere with the works, contaminate its sludge, cause problems in its collection system, or jeopardize its workers.

**Pollution** – shall mean an alteration of the quality of the waters of the State by waste to a degree, which unreasonably affects such waters for beneficial use or affects the facilities which serve such beneficial uses. Pollution may include contamination.

**Polynuclear Aromatic Hydrocarbons (PAHs)** – shall mean aromatic hydrocarbon compounds potentially containing multiple nuclei. Often these are by-products of petroleum processing, combustion, asphalt and oils and greases.

**POTW** – Publically Owned Treatment Works

**POTW Pretreatment Program or Approved POTW Pretreatment Program or Program** – shall mean a program administered by a POTW that meets the criteria established in 40CFR 403 and has been approved by a Regional Administrator or State Director in accordance with 40CFR 403.11.

**POTW Treatment Plant** – shall mean that portion of the POTW, designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

**Premises** – shall mean any lot, parcel of land, building or establishment; either residential, commercial or industrial, both public and private, including schools, churches and institutions without limitation.

**Pretreatment** – shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40CFR 403. Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40CFR 403.

**Pretreatment Requirements** – shall mean any substantive or procedural pretreatment requirement related to Pretreatment, other than a National Pretreatment Standard, imposed on an Industrial User.

**Pretreatment Standards for Existing Sources (PSES)** – shall mean categorical standards and requirements applicable to industrial sources that began construction prior to the publication of the proposed pretreatment standards for that industrial category. (See individual categorical standards in 40CFR Parts 405-471 for specific dates.)

**Pretreatment Standards for New Sources (PSNS)** – shall mean categorical standards and requirements applicable to the industrial sources that began construction after the publication of the proposed pretreatment standards for that industrial category. (See individual categorical standards in 40CFR Parts 405-471 for specific dates).

**Priority Pollutant** – shall mean pollutants listed by the EPA Administrator under Clean Water Act Section 307 (a) (1). The list of the current 126 Priority Pollutants can also be found in 40 CFR Part 423, Appendix A and 40CFR 401.

**Private Lateral** – see Building Lateral.

**Private Sewer** – shall mean a sewer, and associated laterals and appurtenances, that is owned, operated and maintained by private persons, businesses, and which accommodates one or more buildings or industries.

**Private Sewer Mains** – shall mean a private sewer, not dedicated and accepted as a Public Sewer by the District, designed to accommodate more than one lateral sewer where the owners of all parcels served by the private sewer main are responsible for the maintenance of the private sewer main. An agreement between the owners of the private sewer main and the District is required prior to construction of the private sanitary sewer main. Sewer facilities intended for dedication to the District are Private Sewers until such time as they are accepted by the District.

**Process Wastewater** – shall mean any water which, during manufacturing or processing, comes into direct contact with, or results from the production of, or use of any raw material, intermediate product, finished product, by-product, or waste product.

**Production-Based Standard** – shall mean a discharge limitation expressed in terms of allowable pollutant mass discharge per unit of production.

**Properly Shredded Garbage** – shall mean garbage that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle having a dimension greater than one-quarter inch (1/4") in any dimension.

**Public Lateral** – see Street Lateral.

**Public Nuisance** – shall mean continued habitation of any building or continued operation of any industrial facility in violation of the provisions of this or any other ordinance, rule or regulation of the District.

**Public Sewer** – shall mean a sewer that is owned, operated and maintained by the District. This includes facilities designed and constructed by the District and facilities that have been dedicated and accepted by the District. Sewers constructed for dedication to the District do not become public sewers until they have been accepted by the District.

**Publicly Owned Treatment Works or POTW** – shall mean a treatment works as defined by section 212 of the Act, which is owned by a State or municipality (as defined by section 502 of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant. The term also means the



municipality as defined in section 502 of the Act, which has jurisdiction over the Indirect Discharges to and the discharges from such a treatment works.

**Real Property** – shall mean an estate or property consisting of lands and of all appurtenances to lands, as buildings, crops, or mineral rights (distinguished from personal property).

**Receiving Waters** – shall mean a natural watercourse or body of water into which treated sanitary sewage is discharged.

**Recycled Water** – shall mean water, as a result of treatment of waste, is suitable for direct beneficial use or a controlled use that would not otherwise occur. Recycled water is also known as reclaimed water. California Water Code, Section 13050.n

**Regional Administrator** – shall mean the appropriate EPA Regional Administrator.

**Regulated Wastestream** – shall mean an industrial process waste stream regulated by a national categorical pretreatment standard.

**Removal Credit** – shall mean a revised pollutant limit given for a specified categorical industry as a result of a POTW's capability to consistently remove a specific pollutant. Removal credits are not granted at NSD.

**Residential Care Facility** – shall mean any family home, group care facility, or similar facility, which provides twenty-four hour non-medical care of persons in need of personal services to sustain the activities of daily living, which facility has received licensing from the State of California.

**Resource Conservation and Recovery Act (RCRA)** – shall mean the Federal statute regulating the management of hazardous waste from its generation through ultimate disposal. The Act contains requirements for waste generators, transporters, and owners and operators of treatment, storage, and disposal facilities. (41 USC6901 et seq.)

**R/V Space** – shall mean an area established or maintained for transient occupancy by a recreational vehicle, trailer, camper or other mobile living space, for a period not to exceed 29 days, where a sewage disposal hookup or restroom facility is available for use.

**Sanitary Sewer** – shall mean a sewer, which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

**Self-Monitoring** – shall mean sampling and analyses performed by the Industrial User to ensure compliance with the permit or other regulatory requirements.

**Senior Dwelling Units** – shall mean a facility that has qualified as a senior housing pursuant to Section 807(b)(2) of the Fair Housing Act. Total facility occupancy shall be less than 1.5 persons per unit, the square foot of each dwelling unit shall not exceed 1,000 square feet, and at least one occupant shall be at least 55 years of age. If the facility should cease to qualify, the owner shall pay the difference

between the Senior Dwelling Unit Rate and the prevailing single-family unit rate, based on the rates in effect at the time they are paid.

**Sewage** – shall mean a combination of water-carried wastes from residences, business buildings, institutions, and industrial establishments.

**Sewage Sludge** – shall mean solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary, or advanced wastewater treatment process; and a material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screening generated during preliminary treatment of domestic sewage in a treatment works.

**Sewage Treatment Plant** – shall mean any arrangement of devices and structures used for treating sewage.

**Sewer** – shall mean a pipe or conduit for carrying sewage.

**Sewer Service Charge** – shall mean annual charge designed to cover operation and maintenance cost of treatment and collection facilities.

**Sewerage Works** – shall mean all facilities owned or controlled by the District except private sewers, for collecting, pumping, treating and disposing of sewage.

"**Shall**" - is mandatory; "may" is permissive.

**Shell Structure** – shall mean any single structure wherein the actual use of the building has not been established at the time the building permit is issued.

**Side Sewer** – shall mean the sewer line beginning at the foundation wall of any building and terminating at the main sewer and includes the building lateral and street lateral together.

**Significant Industrial User or SIU** – except as provided in 40CFR 403.3(v)(2) and (v)(3), the term SIU shall mean:

(1) All Industrial Users subject to Categorical Pretreatment Standards under 40CFR 403.6 and 40CFR Chapter I, Subchapter N; and

(2) Any other Industrial User that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contact cooling water and boiler blowdown wastewater); contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Control Authority on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement (in accordance with 40CFR 403.8(f)(6).(40CFR 403.3(v))

**Significant Noncompliance** – shall mean:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40CFR 403;
- (2) Technical Review Criteria (TRC) defined here as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40CFR 403.3 multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease and 1.2 for all other pollutants except pH);
- (3) Any other violation of a Pretreatment Standard or Requirement as defined by 40CFR 403.3 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public);
- (4) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment or has resulted in the POTW's exercise of its emergency authority under 40CFR 403.8 (b) to halt or prevent such a discharge;
- (5) Failure to meet, within 90 days after the scheduled date, , a compliance schedule milestone contained in a local control mechanism (i.e. individual or general wastewater discharge permit) or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide, within 45 days after the due date, any required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report non-compliance;
- (8) Any other violation(s) or group of violations, which may include a violation of Best Management Practices, which the POTW determines will adversely affect the operation or implementation of the local Pretreatment program. (40CFR 403.8)

**Significant Violation** – shall mean a violation which remains uncorrected forty-five (45) days after notification of noncompliance; which is a part of a pattern of noncompliance over a twelve-month period; which involves a failure to accurately report noncompliance; or which resulted in the POTW exercising its emergency authority under Section 403.8.

**Single Family Dwelling or Single Family Unit** – shall mean any structure constructed for occupancy of one single family. This classification includes trailers and mobile home units with plumbing hook-up.

**Single Room Occupancy Unit (SRO)** – shall mean a facility that has qualified as a single room occupancy housing project pursuant to Chapter 17.85 of the Napa Municipal Code as it existed on May 10, 1995. Each room is considered a “unit”.

**Slug Load or Slug Discharge** – shall mean any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 2.1 of this ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW’s regulations, Local Limits or Permit conditions.

**Solvent Management Plan** – shall mean a strategy for keeping track of all solvents delivered to a site, their storage, use and disposal. This includes keeping spent solvents segregated from other process wastewater to maximize the value of the recoverable solvents, to avoid contamination of other segregated wastes, and to prevent the discharge of toxic organics to any wastewater collection system or the environment.

**Spill Prevention and Control Plan** – shall mean a plan prepared by an Industrial User to minimize the likelihood of a spill and to expedite control and cleanup activities should a spill occur.

**Split Sample** – shall mean aliquots of a sample are taken from the same container and analyzed independently by two laboratories/agencies to validate sample constituent results.

**Standard Industrial Classification (SIC) Code** – shall mean a statistical classification standard underlying all establishment-based Federal economic statistics classified by industry. Some facilities may have several activities, therefore, having more than one code number.

**Standard Industrial Classification Manual** – shall mean a code book prepared by the Executive Office of the President, Office of Management and Budget.

**Standard Specifications** – shall mean a set of documents containing design and construction standards for all sewerage works within the District, all as adopted by the Board and subsequent amendments.

**Storm Drain** – shall mean a pipe or conduit that carries stormwater, surface or groundwater and drainage. This excludes sewage and polluted industrial wastes.

**Storm Water** – shall mean the water running off or draining from the surface and sub-surface of an area during and after a period of rain or irrigation.

**Street** – shall mean any public highway, road, street, avenue, alleyway, public place, public easement or right of way.

**Street Lateral or Public Lateral** – shall mean the portion of a side sewer lying within a public street, or easement, connecting a building lateral to the main sewer. Street laterals are owned and maintained by the District.

**Submission** – shall mean a request by a POTW for approval of a Pretreatment Program to the EPA or a Director; a request by a POTW to the EPA or a Director for authority to revise the discharge limits in categorical Pretreatment Standards to Reflect POTW pollutant removals; or a request to the EPA by an NPDES State for approval of its State Pretreatment Program. (40CFR 403.3)

**Surety Bond** – shall mean a bond guaranteeing performance of a contract or obligation.

**TICH** – shall mean Total Identifiable Chlorinated Hydrocarbons. Organochloride, organochlorine, chlorocarbon, or chlorinated solvents are considered chlorinated hydrocarbons and contain at least one covalently bonded chlorine atom. Their wide structural variety and divergent chemical properties lead to a broad range of uses.

**Time Proportional Composite Sample** – shall mean a sampling method that combines discrete sample aliquots of constant volume collected at constant time intervals (i.e., 200 milliliter (ml) samples collected every half hour for a 24-hour period). This method provides representative samples only where the sampled stream flow is constant, or where the volume is manually adjusted based on stream flow variation prior to being added to the composite sample container.

**Time Share Unit** – shall mean a facility similar to a hotel where each unit is owned by joint purchasers who may occupy the unit for a specific period of time each year. Multiple rooms connected by interior doors shall each be considered a unit if they can be occupied separately via exterior doors.

**Total Suspended Solids (TSS) or Non-filterable Solids** – shall mean the total suspended solids that float on the surface of, or are suspended in, water, wastewater or other liquids, and is removable by laboratory filtration of a 0.45um pore size filter.

**Total Toxic Organics (TTO)** – shall mean the sum of the masses or concentrations of the specific toxic organic compounds regulated by specific categorical pretreatment regulations which is found in the discharge at specific quantifiable concentrations. (Refer to the specific categorical regulations to identify which compounds are regulated, what numeric value is considered "quantifiable", and what sampling or certification alternatives may be available).

**Toxic Organic Management Plan (TOMP)** – shall mean a written plan submitted by Industrial Users in accordance with some categorical pretreatment standards as an alternative to TTO monitoring which specifies the toxic organic compounds used, the method of disposal used, and procedures for assuring that toxic organics do not routinely spill or leak into wastewater discharged to the POTW.

**Toxic Pollutants** – shall mean those pollutants identified pursuant to 307 (a) (1) of the Clean Water Act and 40CFR 401.

**Treatment Works** – shall mean all facilities owned or controlled by the District except private sewers used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature or necessary to recycle or reuse water at the most economical cost over the useful life of the works, including interceptor sewers, outfall sewers, sewage collection systems, pumping, power and other equipment and appurtenances; extensions, improvements, remodeling, additions

and alterations thereof; including the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment; or any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal and industrial waste.

**Uncontaminated Water** – shall mean water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to the agency having jurisdiction thereof for disposal; to storm or natural drainages or directly to surface waters.

**Uniform Plumbing Code (UPC)** – shall mean a model code developed by the International Association of Plumbing and Mechanical Officials to govern the installation and inspection of plumbing systems as a means of promoting the public's health, safety and welfare.

**Unregulated Wastestream** – shall mean for purposes of the combined wastestream formula, a wastestream that is not regulated by a national categorical pretreatment standard and is not considered a dilute wastestream.

**Upset** – shall mean an exceptional incident in which there is unintentional and temporary noncompliance with the categorical Pretreatment Standards because of factors beyond the reasonable control of the Industrial User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

**User Classification** – shall mean a classification of user based on the 1987 edition of the Standard Industrial Classification (SIC) manual or latest edition prepared by the Executive Office of Management and Budget.

**Volatile Organic Compounds (VOCs)** – as defined in 40 CFR 50.100, “volatile organic compounds” shall mean any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions.

**Waste** – shall include sewage and any and all other waste substance, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for purposes of, disposal.

**Waste Minimization** – shall mean the reduction or elimination, to the extent feasible, of any waste that is generated or subsequently treated, stored or disposed of. It is the elimination or reduction in the use of hazardous materials and the generation of hazardous wastes. It seeks to prevent pollutant releases to all environmental media; water, land or air.

**Wastewater Constituents and Characteristics** – shall mean the individual chemical, physical, bacteriological and radiological parameters, including volume and flow rate and such other

parameters that serve to define, classify, or measure the contents, quality, quantity and strength of wastewater.

**Wastewater Discharge Permit** – shall mean a permit for the discharge of non-domestic waste as set forth in Article VII of this ordinance.

**Wastewater Treatment System** – shall mean any device, facility, structure or equipment owned or operated by the District for the purpose of transmission, storage treatment, recycling, or reclamation of non-domestic or domestic wastes, including intercepting sewers, outfall sewers, sewer collection systems, pumps, power plants and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof, any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

**Water Management Division Director** – shall mean one of the Directors of the Water Management Divisions within the Regional offices of the Environmental Protection Agency or his/her delegated representative.

**Waters of the State** – shall mean any water, surface or underground, including saline waters within the boundaries of the State.

**Winery-Related Operations (Industrial User Category)** – shall mean a facility that discharges to the sanitary sewer and is engaged in any of the following activities that are part of the winemaking process and where the end product exceeds 480 gallons of wine (or related beverage) per year: crushing of grape fruit to produce juice; fermentation of grape juice; cleaning of equipment related to crush, aging, and/or fermentation; storage of juice, fermenting juice or wine in stainless steel containers or barrels; filling, topping or sampling of wine in barrels; racking of wine in barrels; cleaning of barrels or tanks with water, steam and/or cleaning chemicals; bottling wine; or cleaning of equipment related to and associated with bottling; or related activities that result in non-domestic discharge to the sanitary sewer.

**1.02.010 Commonly Used Acronyms**

<b>ADU</b>	Accessory Dwelling Unit
<b>BMP</b>	Best Management Practices
<b>BMR</b>	Baseline Monitoring Report
<b>BOD</b>	Biochemical Oxygen Demand
<b>BPJ</b>	Best Professional Judgment
<b>CAC</b>	California Administrative Code
<b>CFR</b>	Code of Federal Regulations
<b>CWA</b>	Clean Water Act
<b>CWF</b>	Combined Wastestream Formula

<b>DFU</b>	Drainage Fixture Unit Values
<b>EDU</b>	Equivalent Dwelling Unit
<b>EPA</b>	Environmental Protection Agency
<b>ERP</b>	Enforcement Response Plan
<b>FOG</b>	Fats, Oil and Grease
<b>FSE</b>	Food Service Establishments
<b>FWA</b>	Flow-Weighted Averaging Formula
<b>IU</b>	Industrial User
<b>JADU</b>	Junior Accessory Dwelling Unit
<b>LC</b>	Lethal Toxicity or Lethal Concentration
<b>LEL</b>	Lower Explosion Limit
<b>MBAS</b>	Methylene Blue Active Substances (Detergent)
<b>MSDS</b>	Material Safety Data Sheet
<b>NPDES</b>	National Pollutant Discharge Elimination System
<b>NSD</b>	Napa Sanitation District
<b>O&amp;M</b>	Operation and Maintenance
<b>PAH</b>	Polynuclear Aromatic Hydrocarbons
<b>POC</b>	Pollutant of Concern
<b>POTW</b>	Publically Owned Treatment Works
<b>PSES</b>	Pretreatment Standards for Existing Sources
<b>PSNS</b>	Pretreatment Standards for New Sources
<b>RCRA</b>	Resource Conservation and Recovery Act
<b>RWQCB</b>	Regional Water Quality Control Board
<b>SIC</b>	Standard Industrial Classification
<b>SIU</b>	Significant Industrial User
<b>SRO</b>	Single Room Occupancy Unit
<b>SU</b>	Standard Unit
<b>SWA</b>	Solid Water Act
<b>TICH</b>	Total Identifiable Chlorinated Hydrocarbons
<b>TOMP</b>	Toxic Organic Management Plan
<b>TRC</b>	Technical Review Criteria
<b>TSS</b>	Total Suspended Solids
<b>TTO</b>	Total Toxic Organics
<b>UPC</b>	Uniform Plumbing Code
<b>USC</b>	United States Code



**1.03 Miscellaneous Provisions**

**1.03.010 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 sewerage works. Any person violating this provision shall be subject to the penalties provided by law.

**1.03.020 General Manager**

The Board shall employ some fit and qualified person or persons to perform the duties of General Manager, which will include but not be limited to, supervision of inspection, installation, connection, maintenance and use of all side sewers, public sewers, private sewers and sewerage works of the District. The General Manager may delegate certain duties to other qualified officers or employees of the District.

**1.03.030 Powers and Authorities of District Employees**

Any duly authorized employee of the District shall carry evidence establishing their position as an authorized representative of the District 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 purposes of inspection, reinspection, observation, measurement, sampling, testing and otherwise performing such duties as may be necessary in the enforcement of the provisions of the ordinances, rules and regulations of the District. All contractors shall be held strictly responsible for any and all acts of agents or employees done under this ordinance. Upon being notified by the General Manager of any defect arising therefrom in any sewer or of any violation of this ordinance, the person or persons having charge of said work shall immediately correct the same.

**2.01 Board Organization and Procedures**

**2.01.010 Compensation of Directors**

The compensation for Directors of the Napa Sanitation District is hereby established at \$218 for each regular, special, standing or ad hoc committee meeting of the Board attended by the member or for each day's service rendered as a member of the Board by request of the Board, up to the maximum established by State Law.

**2.02 Claims Procedure**

The purpose of this Section is to establish claims procedures for all claims for money or damages against the district which are excepted by Section 905 of the Government Code of the state of California from Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code of the state of California and which are not governed by any other statutes or regulations expressly relating thereto.

**2.02.010 Authority and Scope**

District Code Section 2.02 is enacted pursuant to the authority of Section 935 of the Government Code of the state of California and is intended to cover all claims against the district for money or damages for which said section permits the district to prescribe procedures.

**2.02.020 Date of Accrual of Cause of Action**

For the purpose of computing the time limits prescribed by 2.02.030 and 2.02.040, the date of the accrual of a cause of action to which a claim relates is the date upon which the cause of action would be deemed to have accrued within the meaning of the statute of limitations which would be applicable thereto if there were no requirements that a claim be presented to and be acted upon by the district before an action could be commenced thereon. However, the date upon which a cause of action for equitable indemnity or partial equitable indemnity accrues shall be the date upon which a defendant is served with the compliant giving rise to the defendant's claim for equitable indemnity or partial equitable indemnity against the district.

**2.02.030 Necessity of Existence of Liability**

Nothing in this part imposes liability upon the district unless such liability otherwise exists.

**2.02.040 Necessity of Written Claim**

Except as provided in Sections 946.4 and 946.6 of the Government Code of the state of California, no suit for money or damages may be brought against the district upon any cause of action exempted by Section 905 of the Government Code of the state of California from Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code of the state of California, and which is not governed by any other statutes or regulations relating expressly thereto, until a written claim

therefor has been presented to the district in accordance with the provisions of Section 2.02 and has been acted upon by the board of directors or has been deemed to have been rejected by the board of directors in accordance with Section 2.02.140.

**2.02.050 Contents of Claim**

A claim shall be presented by the claimant or by a person acting on his behalf and shall show:

- 1) The name and post office address of the claimant;
- 2) The post office address to which the person presenting the claim desires notices to be sent;
- 3) The date, place and other circumstances of the occurrence or transaction that gave rise to the claim asserted;
- 4) A general description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of presentation of the claim;
- 5) The name or names of the district agent(s) or employee(s) causing the injury, damage, or loss, if known; and
- 6) The amount claimed if it totals less than ten thousand dollars as of the date of presentation of the claim, or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed. If the amount claimed exceeds ten thousand dollars, no dollar amount shall be included in the claim. However, it shall indicate whether jurisdiction over the claim would rest in municipal or superior court.

**2.02.060 Signature and Date**

The claim shall be signed and dated by the claimant or by some person on his behalf.

**2.02.070 Notice of Insufficiency of Claim**

- A) If in the opinion of the board of directors or the person designated by it a claim as presented fails to comply substantially with the requirements of 2.02.050 or 2.02.060, the board of directors or such person may, at any time within twenty days after the claim is presented, give written notice of its insufficiency, stating with particularity the defects or omissions therein.
- B) Such notice, if given, shall be given in the manner prescribed in Section 2.02.200.
- C) The board of directors may not take action on the claim for a period of fifteen days after such notice is given.

**2.02.080 Time for Presentation of Claims**

A claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented as provided in Sections 2.02.180 and 2.02.190 no later than six months after the accrual of the cause of action. A claim relating to any other cause of action

shall be presented as provided in Sections 2.02.180 and 2.02.190 not later than one year after accrual of the cause of action.

#### **2.02.090 Notice That Claim Not Timely Filed**

When a claim that is required by Section 2.02.080 to be presented not later than six months or one year after accrual of the cause of action is presented after such time without the application provided for in Section 2.02.100, the board or its designee, may at any time within forty-five days after the claim is presented, give written notice to the person who presented the claim that the claim was not filed timely and that it is being returned without further action. The notice shall be in substantially the following form:

The claim you presented to the Napa Sanitation District is being returned because it was not presented within the time required by law. See Sections 2.02.080 and 2.02.090 of this Code. Because the claim was not presented within the time allowed by law, no action was taken on the claim.

The only possible recourse you may have is to apply without delay to the Napa Sanitation District for leave to present a late claim. See Sections 2.02.100 to 2.02.130 of this Code, inclusive, and Government Code Section 946.6. No determination has been made as to whether you have grounds for such an application or whether such application could not be made within relevant time limits. However, the Napa Sanitation District has the authority to, and will under some circumstances, grant leave to present a late claim to any applicant who timely presents such application. See Section 2.02.110 of this Code.

You may seek the advice of any attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

#### **2.02.100 Late Claim Application**

- A) When a claim that is required by Section 2.02.080 to be presented not later than six months after accrual of the cause of action is not presented within such time, a written late claim application may be made to the district for leave to present such claim.
- B) The late claim application shall be presented to the district as provided in Sections 2.02.180 and 2.02.190 within a reasonable time not to exceed one year after accrual of the cause of action and shall state the reason for the delay in presenting the claim. The proposed claim shall be attached to the late claim application. In computing the one-year period under this section, time during which the person who sustained the alleged injury, damage or loss is a minor shall be counted, but the time during which he is mentally incapacitated and does not have a guardian or a conservator of his person shall not be counted.

#### **2.02.110 Grant or Denial of Late Claim Application**

- A) The board of directors shall grant or deny the late claim application within forty-five days after it is presented to the district. If the board of directors does not act upon the application within forty-five days after the application is presented, the application shall be deemed to have been denied on the forty-fifth day.

- B) The board of directors shall grant the application where one or more of the following is applicable:
- 1) The failure to present the claim was through mistake, inadvertence, surprise or excusable neglect and the district was not prejudiced by the failure to present the claim within the time specified in its defense of the claim in 2.02.080; or
  - 2) The person who sustained the alleged injury, damage or loss was a minor during all of the time specified in Article 8 for the presentation of the claim; or
  - 3) The person who sustained the alleged injury, damage or loss was physically or mentally incapacitated during all of the time specified in Section 2.02.080 for the presentation of the claim and by reason of such disability failed to present a claim during such time; or
  - 4) The person who sustained the alleged injury, damage or loss died before the expiration of the time specified in Section 2.02.080 for the presentation of the claim.

**2.02.120 Notice of Board of Directors' Action on Late Claim**

Written notice of the board of directors' action upon the late claim application shall be given in the manner prescribed in Section 2.02.200. If the application is denied, the notice shall include a wording in substantially the following form:

**WARNING**

**If you want to file a court action on this matter, you must first petition the appropriate court for an order relieving you from the provisions of District Code Section 2.02.040 (claims presentation requirement). See Government Code Section §946.6. Such petition must be filed with the court within 6 months from the date your application for leave to present a late claim was rejected. You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney you should do so immediately.**

**2.02.130 Claim Deemed Presented to Board of Directors upon Day Leave to Present Late Claim Granted**

If a late claim application for leave to present a claim is granted by the board pursuant to Section 2.02.110 the claim shall be deemed to have been presented to the board of directors upon the day that leave to present the claim is granted.

**2.02.140 Time for Action by Board of Directors on Claim**

- A) The board of directors shall act on a claim in the manner provided in Section 2.02.150 within forty-five days after the claim has been presented.
- B) The claimant and the board of directors may extend the period within which the board of directors is required to act on the claim by written agreement made:
- 1) Before the expiration of such period; or

- 2) After the expiration of such period if an action based on the claim has not been commenced and is not yet barred by the period of limitations provided in Section 945.6 of the Government Code of the state of California.
- C) If the board of directors fails or refuses to act on a claim within the time prescribed by this section, the claim shall be deemed to have been rejected by the board of directors on the last day of the period within which the board of directors was required to act upon the claim. If the period within which the board of directors is required to act is extended by agreement pursuant to this section, whether made before or after the expiration of such period, the last day of the period within which the board of directors is required to act shall be the last day of the period in such agreement.

#### **2.02.150 Action by Board of Directors on Claim**

The board of directors may act on a claim in one of the following ways:

- 1) If the board of directors finds the claim is not a proper charge against the district, it shall reject the claim.
- 2) If the board of directors finds the claim is a proper charge against the public entity and is for an amount justly due, it shall allow the claim.
- 3) If the board finds the claim is a proper claim against the district, but is for an amount greater than is justly due, it shall either reject the claim or allow it in the amount justly due and reject it as to the balance.
- 4) If legal liability of the district or the amount justly due is disputed, the board of directors may reject the claim or may compromise the claim.
- 5) If the board allows the claim in whole or in part or compromises the claim, it may require claimant, if he accepts the amount allowed or offered to settle the claim, to accept it in settlement of the entire claim.

#### **2.02.160 Notice of Rejection**

- A) Written notice of the action taken under Section 2.02.160 or the inaction, which is deemed rejection under Section 2.02.140 shall be given in the manner, prescribed by Section 2.02.200. Such notice may be in substantially the following form:

“Notice is hereby given that the claim which you presented to the Napa Sanitation District on (indicate date) was (indicate whether rejected, allowed, allowed in the amount of \$ \_\_\_\_\_ and rejected as to the balance, rejected by operation of law, or other appropriate language, whichever is applicable) by (Name of Entity) on (indicate date of action or rejection by operation of law).”

- B) If the claim is rejected in whole or in part, the notice required by subsection (A) shall include a warning in substantially the following form:

**“WARNING**

**Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code Section 945.6. You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.”**

**2.02.170 Reexamination of Rejected Claim**

The board of directors may in its discretion, within the time prescribed by Section 945.6 of the Government Code of the state of California for commencing an action on the claim, reexamine a previously rejected claim in order to consider a settlement of the claim.

**2.02.180 Presentation of Claim or Late Claim Application to District**

- A) A claim or a late claim application to the district shall be presented to the district by:
  - 1) Delivering it to the secretary or auditor thereof; or
  - 2) Mailing it to such secretary or auditor or to the board of directors at the principal office of the district located at P.O. Box 2480, Napa California 94558.
- B) A claim or late claim application shall be deemed to have been presented in compliance with this section even though it is not delivered or mailed as provided in this section if it is actually received by the secretary, auditor or board of directors of the district within the time prescribed for presentation thereof.
- C) A claim or late claim application shall be deemed to have been presented in compliance with this section if it is delivered or mailed within the time prescribed for presentation thereof in conformity with the information contained in the statement in the Roster of Public Agencies pertaining to the district which is on file at the time the claim or late claim application is delivered or mailed. As used in this section, “statement in the Roster of Public Agencies” means the statement or amended statement in the Roster of Public Agencies in the office of the Secretary of State or in the office of the county clerk of any county in which such statement or amended statement is on file.

**2.02.190 Mailing**

If a claim or late claim application to the district is presented or sent by mail under this chapter, or if any notice under this chapter is given by mail, the claim, or late claim application or notice shall be mailed in the manner prescribed in this section. The claim, or late claim application, or notice must be deposited in the United States post office, or a mailbox, subpost office, substation, or mail chute, or other like facility regularly maintained by the government of the United States, in a sealed envelope, properly addressed, with postage paid. The claim, late claim application or notice shall be deemed to have been presented and received at the time of the deposit. Proof of mailing may be made in the manner prescribed by Section 1013a of the Code of Civil Procedures of the state of California.

### 2.02.200 Manner of Giving Notice

- A) The notices provided for in Sections 2.02.070, 2.02.120 and 2.02.160 shall be given by either of the following methods:
  - 1) Personally delivering the notice to the person presenting the claim or making the late claim application;
  - 2) Mailing the notice to the address, if any, stated in the claim or late claim application as the address to which the person presenting the claim or making the late claim application desires to be sent, or if no such address is stated in the claim or late claim application, by mailing to the address, if any, of the claimant as stated in the claim or late claim application.
- B) No notice need be given where the claim or late claim application fails to state either an address to which to person presenting the claim or making the late claim application desires to be sent or an address of the claimant.

## 2.03 Procurement Policies

### 2.03.010 Purchasing Agent

- A. **Designation of Purchasing Agent.** The Director of Administrative Services shall be the Purchasing Agent for the Napa Sanitation District (“District”) and shall have the duties and powers described by the applicable laws of the state relating to purchasing agents, this ordinance, and applicable resolutions of the Board of Directors. When it is not feasible or practical for the Director of Administrative Services to serve as the Purchasing Agent, the General Manager shall serve as the Purchasing Agent.
- B. **Authority to Commit Funds.** Only the Board of Directors, the General Manager, the Assistant General Manager, the Purchasing Agent, or their designee may commit District funds for the purchase of any goods, equipment or services for District benefit. Said commitments of District funds may be made only where the person making the commitment is authorized to do so by a specific provision of this Ordinance. Except in cases of emergency as hereinafter provided, or in cases where the Board of Directors has made specific provision, no purchase of property by any governing body or person other than the Board of Directors, the General Manager, the Assistant General Manager, the Purchasing Agent, or their designee shall be binding on the District or constitute a lawful charge against District funds.
- C. **Delegation of Authority.** The Purchasing Agent may delegate the authority for the purchase of goods and supplies and for the procurement of professional services to District Department Heads as described herein.
- D. **Duties of Purchasing Agent.** The Purchasing Agent or his/her designee shall:
  - (1) Monitor and coordinate District purchases for all materials, supplies, services, furnishings, equipment and other property in accordance with rules and regulations



prescribed by District ordinances, resolutions, policies, and procedures, and as otherwise provided for by law.

- (2) Maintain the list of qualified contractors required pursuant to Section 2.C of this Ordinance.
  - (3) Engage independent contractors to perform services for the District in accordance with the provisions of this Ordinance.
  - (4) Engage independent contractors to construct, repair or furnish any building or structure consistent with the authority vested in the Purchasing Agent by this Ordinance.
  - (5) When authorized, sell or dispose of surplus property of the District.
  - (6) Perform such other services as the Board of Directors may from time to time by resolution require.
- E. **Rules and Procedures.** The Purchasing Agent is charged with the authority and responsibility for coordinating and managing the procurement of goods, supplies, equipment, and services according to applicable law and this ordinance. This authority includes the responsibility to establish rules and procedures to ensure that applicable laws, regulations and procurement policies are followed.

#### **2.03.020 Informal Bidding for Construction**

- A. **Dollar amount limitations.** Public projects, as defined by the Uniform Public Construction Cost Accounting Act (Section 22000, et seq. of the Public Contract Code), of sixty thousand dollars (\$60,000) or less may be performed by District employees by force account, by negotiated contract, or by purchase order without obtaining competitive bids. Public projects of two hundred thousand dollars (\$200,000) or less may be let to contract by informal procedures as set forth in this Section. If all bids received are in excess of \$200,000, the Board of Directors may, by adoption of a resolution by four-fifths vote, award the contract, at two hundred twelve thousand five hundred dollars (\$212,500) or less, to the lowest responsible bidder, if it determines the cost estimate of the District was reasonable.
- B. **Informal bidding procedures.** Public projects, as defined by the Uniform Public Construction Cost Accounting Act (Section 22000, et seq. of the Public Contract Code) and in accordance with the limits listed in Section 22032 of the Public Contract Code, may be let to contract by informal procedures as set forth in Section 22032, et seq., of the Public Contract Code.
- C. **Contractors list.** A list of contractors shall be developed and maintained in accordance with the provisions of Section 22034 of the Public Contract Code and criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission.
- D. **Notice inviting informal bids.** Where a public project is to be performed that is subject to the provisions of this Section, a notice inviting informal bids shall be mailed to all contractors for the category of work to be bid, as shown on the list developed in accordance with Section 2(C) above, and/or to all construction trade journals as specified by the California Uniform Construction Cost Accounting Commission in accordance with Section

22036 of the Public Contract Code. Additional contractors and/or construction trade journals may be notified at the discretion of the District, provided however that:

- (1) If there is no list of qualified contractors maintained by the District for the particular category of work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the Commission.
- (2) If the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent exclusively to such contractor or contractors.

All notices to contractors and construction trade journals pursuant to this Section shall be issued not less than ten (10) calendar days before bids are due. The notice inviting informal bids shall describe the project in general terms and how to obtain more detailed information about the project, and state the time and place for the submission of bids.

- E. **Award of contracts.** The General Manager and the Purchasing Agent are each authorized to award informal contracts pursuant to this Section for projects that have been approved by the Board of Directors in the Capital Improvement Plan. The Board of Directors shall award all other informal contracts pursuant to this Section.
- F. **Change orders.** The General Manager may, without authorization of the Board of Directors, approve change orders for public projects awarded pursuant to this Section 2 that are up to 20% of the initial award amount for projects with an initial award up to \$200,000, and up to 15% of the initial award amount for projects with an initial award between \$200,000 and \$212,500.
- G. **Separation of Work Orders.** The District shall not split or separate into smaller work orders or projects any project for the purpose of evading the provisions this Ordinance or state law requiring work to be done by contract after competitive bidding.

### 2.03.030 Formal Bidding for Construction

- A. **Formal Bidding Required.** Except as otherwise authorized by this Ordinance, all public projects shall be constructed and all contracts for the construction of work shall be let pursuant to state law regarding competitive bids and the work shall be performed by the contractor who shall be found and determined by the Board of Directors to have presented the lowest responsible and responsive bid for each instance.
- B. **Construction approval by Board.** Plans and specifications shall be approved by the Board of Directors prior to the invitation of bids for construction projects subject to formal bidding.
- C. **General notice inviting bids.** Unless otherwise directed by the Board, each notice inviting bids shall be signed by the District Engineer and shall be published twice not less than five (5) calendar days apart in a newspaper of general circulation printed and published in Napa County at least fourteen (14) calendar days prior to the date fixed for receiving and opening bids. The notice shall also be mailed to all construction trade journals designated by the California Uniform Cost Accounting Commission to receive mailed notice for all informal and formal construction contracts being bid for work within Napa County at least thirty (30) calendar days prior to the date designated for opening bids.

- D. **Bid documents and Addenda.** Complete sets of bid documents shall be the basis for bidders to make submissions. The District may require bidders to pay a fee associated with the production and distribution of bid documents; said fee shall be clearly stated in the notice inviting bids. Bidders shall use complete sets of bidding documents when submitting bids. Bidders may request clarification or interpretation of the bid documents in writing, which shall be received at least seven (7) calendar working days prior to the date for receipt of bids, or as otherwise specified in the bid document. Any interpretation, correction or change of the bidding documents will be made by addendum to the bid invitation. Any addenda will be delivered to all that are known by the District to have received a complete set of bidding documents. No addenda will be issued later than four (4) working days prior to the date for receipt of bids, except for an addendum withdrawing the request for bids or one that includes postponement of the date for receipt of bids. It is the responsibility of the bidder to ascertain prior to submitting a bid that bidder has received all addenda issued.
- E. **Substitutions.** Materials, products and equipment described in the bidding documents establish a standard of required function, dimension, appearance and quality to be met by any proposed substitution. The burden of proof to demonstrate the merit of proposed alternate or substitute is on the bidder. Non-solicited proposals for substitutions may be considered for award if submitted by the bidder who would otherwise be the low bid. The District's decision whether to accept a substitution shall be final.
- F. **Bid Security.** The District may, at its discretion, require a bid bond or bid deposit to protect the District in the event the bidder awarded the contract does not execute the contract. In the event an otherwise low bidder is allowed to withdraw a bid due to claim of error, the District may retain the bid security to offset its administrative costs.
- G. **Bid opening date.** Each Notice Inviting Bids shall be assigned a bid opening date and time by which bids must be received to be considered. Bids received after the date and time advertised for opening will be considered non-responsive and will be rejected.
- H. **Correction and withdrawal of bids.** No change or correction to a bid shall be permitted that would prejudice the interest of the public or be unfair to other bidders. The following shall be considered regarding corrections or withdrawal of bids:
- (1) **Waiving Informalities.** The notice inviting bids may contain provisions allowing the District to waive informalities and accept the bid that appears to be in the best interest of the District. Such informalities may consist of the correction of minor errors, but only if the bid is substantially in compliance with the terms and conditions of the notice. Errors that are not material and do not invalidate the legitimacy of a bid may be waived as informal errors.
  - (2) **Bid Withdrawal Prior to the Bid Opening.** Prior to bid opening, mistakes in bids detected by a bidder may be corrected or a bid withdrawn upon written request signed by an authorized representative of the bidder.
  - (3) **Judgmental Errors.** A bid may not be withdrawn as the result of a mistake attributable to the bidder's error in judgment. Bid withdrawal by reason of non-judgmental error may be allowed, but only to the extent consistent with, and pursuant to the criteria set forth in, state law.

- (4) **Correcting Mistakes in Bids.** During or after bid opening, mistakes detected in bids may not be corrected by the bidder except:
- (a) A bidder may be permitted to correct a material mistake that would cause such bidder to have the low bid if the mistake is clearly evident from examining the bid document; for example, arithmetical errors. However, a bidder shall not be permitted to correct a bid for errors of judgment.
  - (b) An otherwise low bidder may be permitted the opportunity to furnish other information called for by the notice inviting bids and not supplied due to oversight, so long as it does not affect responsiveness.
- I. **Reservation of right to reject bids and/or require rebid.** The District reserves the right to reject any or all bids in whole or in part and may waive any irregularities or informalities in any bid when, after consideration of all relevant circumstances, such action is considered in the best interest of the District.
- J. **Bid award.** Bid awards shall be made to the lowest responsive bid from a responsible bidder. All awards shall be made by written notice to the successful bidder and shall be promptly made public information.
- (1) A bid shall be considered responsive when the bidder has complied with the terms, conditions, provisions, specifications, instructions, and all other requirements of the notice inviting bids. The determination whether or not a bid is considered responsive is an administrative decision made by the Purchasing Agent.
  - (2) A bidder shall be considered responsible when it has been established that s/he has the technical capability, financial capacity, facilities, and work force required to perform as outlined in the provisions and conditions of the bid. Safety performance may be used as a consideration. Reference checks and documented past performance history may be considered when determining whether a bidder has the capability to fulfill the requirements of the project.
- K. **Cancellation of bid award.** Failure on the part of the successful bidder within the time allowed to execute the contract or comply with any other requirement imposed precedent to execution of the contract shall be considered just cause for cancellation of the award and forfeiture of the bid security, not as a penalty, but in liquidation of certain damages sustained. Contract award may then be made to the next lowest responsive bid from a responsive bidder, or the notice inviting bids may be cancelled.
- L. **Tie bids.** If the bid evaluation results in a determination that there has been a tie for lowest responsive bid between two or more bids received, which are for the same total amount or unit price and in all other respects equal, and if there is no evidence of collusion between the tie bidders, then the District may award the bid based on local preference; but if equal on that point, then on safety performance; but if equal on that point, then on credit history; but if equal on that point, then on completion history; but if equal on that point, then the District shall have the tie bidders draw lots for the bid award.
- M. **Change orders.** The General Manager may, without authorization of the Board of Directors, approve change orders in connection with contracts for public projects under this Section up

to ten percent (10%) of the original contract amount, with a maximum cumulative change order amount of five hundred thousand dollars (\$500,000).

#### **2.03.040 Purchase of Goods and Materials**

- A. **Offer and acceptance.** The Uniform Commercial Code establishes that a contract exists when there has been offer and acceptance. Thus, the terms of an agreement to buy or sell are not fixed until offer and acceptance have been established. Written quotes submitted by prospective vendors are recognized as offers and purchase orders or contracts issued by the District serve as acceptance. Verbal offers are not recognized as offers. When verbal quotes are received, the District's issuance of a purchase order is considered an offer and acknowledgement or delivery by the vendor is considered acceptance. A facsimile or email quote is construed to constitute a written offer.
- B. **Purchase of Goods and Materials under \$5,000.** Competitive quotes for the purchase of goods and materials are not required when unit cost of such goods or materials is under five thousand dollars (\$5,000). The Purchasing Agent may delegate the authority to purchase goods and materials under \$3,000 to specific District positions, including supervisors.
- C. **Purchase of Goods and Materials \$5,000 or over**
  - (1) **Award to Low Bid.** Except as otherwise provided by this Ordinance, at least three (3) quotes shall be solicited for the purchase of those goods and materials with a cost of five thousand dollars (\$5,000) and above, with the contract for purchase awarded to the low bid. Quotes shall be documented.
  - (2) **Competition.** Except as allowable through Sole Source Procurement section of this Ordinance, bid specifications should be written to allow for competition and not to exclude all but one kind or type of product, and should describe the performance requirements rather than its formulation, description or design.
  - (3) **Delegation.** The Purchasing Agent may delegate the authority to purchase goods and materials under ten thousand dollars (\$10,000) to District department heads.
  - (4) **Reservation of Right to Reject Bids and/or Require Rebid.** The District reserves the right to reject any or all bids in whole or in part and may waive any irregularities or informalities in any bid when, after consideration of all relevant circumstances, such action is considered in the best interest of the District. The District further reserves the right to rebid any purchase of goods or materials, regardless of any prior actions to request bids.

#### **2.03.050 Procurement of Professional Services**

- A. **Professional Services-Generally.** Professional services are consulting or professional/technical services not provided by District employees. Professional Services include, but are not limited to, financial, economic, accounting, legal, medical, therapeutic and administrative services.
- B. **Professional Services for Select Professions.** Per California Government Code, Section 4526, the selection of a vendor to provide architectural, landscape architectural,

engineering, environmental, land surveying, or construction project management professional services shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. For these selected professions, there are special procedures for acquiring these services.

- C. **Criteria for Use of Professional Service Contracts.** Contracted professional services shall be used only under the following conditions:
- (1) Urgent need which cannot be met by District employees.
  - (2) Temporary, intermittent, or irregular services which cannot be performed effectively by District employees.
  - (3) Special or highly technical skills which cannot be obtained from District employees.
  - (4) Need for an independent opinion, appraisal, audit, or similar services.
  - (5) Lack of sufficient personnel to accomplish the work in the required time frame.
- D. **Selection of Vendors for Professional Services-Generally.** Vendors for professional services other than those identified in California Government Code, Section 4525, shall be selected as follows:
- (1) Vendor selection shall be based on a competitive process whenever reasonably feasible. Professional services may be competitively solicited through informal Requests for Quotes (RFQ) and informal Requests for Proposals (RFP) or through formal sealed competitive proposals. The type of service to be contracted for, the anticipated award amount, and the potential risks involved affect the decision whether to use informal or formal purchasing procedures.
  - (2) Professional service contracts may be awarded without competitive solicitation when there is only one person or vendor available or capable of providing the required service, when there are limitations in the availability of potential contractors, when the services required are of such a specialized nature that precludes competitive solicitation, or when other conditions exist such that the appropriate awarding authority determines that it is in the District's best interest to waive competitive solicitation for the required professional services.
- E. **Selection of Vendors for Select Professional Services.** Vendor selection for professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms, as defined in California Government Code, Section 4525, shall follow the procedure outlined below:
- (1) Prospective vendors are requested to submit statements of qualifications to the District for the required services or proposed project. Statements of qualifications may be solicited through trade publications and by other methods of advertisement.
  - (2) District staff shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with no less than three firms, when available, regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and

then shall select therefrom, in order of preference, based upon criteria established and published by the District, no less than three of the firms deemed to be the most highly qualified to provide the services required.

- (3) The department shall negotiate a contract with the most highly qualified individual or firm as established by the evaluation procedure in (2) above, for service at a price the District determines is fair and reasonable. Should the District be unable to successfully negotiate a contract with the most highly qualified individual or firm at a price the department deems fair and reasonable, then negotiations with that individual or firm shall be terminated; and, the District shall negotiate a contract with the second most highly qualified individual or firm. Failing accord with the second most qualified individual or firm, the District shall terminate the negotiations, and then undertake negotiations with the third most qualified firm. Should the District be unable to negotiate a satisfactory contract with any of the selected firms, the District shall select additional firms in order of their competence and qualification and continue negotiations until an agreement is reached.

- F. **Award of Contract.** The Board of Directors shall authorize all task orders for professional services over seventy-five thousand dollars (\$75,000). The Purchasing Agent shall have the authority to authorize all other professional services task orders.
- G. **Change Orders.** The General Manager may, without authorization of the Board of Directors, approve change orders or amendments in connection with task orders for professional services under this Section, up to twenty percent (20%) of the original task order amount for task orders up to one hundred seventy-five thousand dollars (\$175,000), and up to ten percent (10%) for task orders at or above one hundred seventy-five thousand dollars (\$175,000), with a maximum cumulative change order amount of one hundred fifty thousand dollars (\$150,000).

#### **2.03.060 Sole Source Procurement**

- A. **Competition is presumed.** All reasonable attempts should be made to identify multiple vendors or multiple brands prior to any approval of sole source procurement.
- B. **Sole source procurement defined.** Sole source procurement is any acquisition which, by virtue of the specifications required or by the clear and specific restrictions imposed by a provider, restricts the procurement to one vendor or to one brand.
- C. **Allowable justifications for sole source procurement.** Sole source procurements are allowed under the following conditions or when procuring the following goods or services:
  - Goods or materials where cost is under three thousand dollars (\$3,000)
  - Professional services performed by vendors on jobs less than seventy-five thousand dollars (\$75,000)
  - Maintenance work performed by contractors on jobs less than forty-five thousand dollars (\$45,000), as long as the price from contractor is within 10% of independent engineer's estimate of probable construction cost

- Property or services, the price of which is fixed by law
- Training seminars or other classes for personnel
- Materials, supplies or equipment or services that can only be obtained from one supplier, generally because of its technological, specialized or unique character
- The product is unique in design and/or has features which are required for a specific application
- The product must be compatible with existing equipment
- The product or service is available only from the manufacturer's authorized representative
- Automotive and heavy equipment repairs
- When, in the judgment of the Purchasing Agent, it is in the best interest of the District to negotiate, without engaging in a competitive bidding process, an extension of an existing contract for goods based upon satisfactory performance, as long as such negotiated price is fair and reasonable
- Purchases made from other public agencies by use of joint powers agreements, cooperative purchasing programs, pooling agreements, and other recognized types of agreements used by government agencies for the purpose of combining purchasing requirements in order to reduce costs, increase efficiency, or reduce administrative expenses
- Goods or services on, or provided by vendors on, the California Multiple Award Schedules (CMAS) list, subject to the limitations and provisions of the CMAS program, or other comparable cooperative purchasing program lists
- Materials, supplies or services that are acquired from a vendor based on a contractual arrangement with the vendor that was established pursuant to a California government competitive bid process.

### **2.03.070 Emergency Procurement**

- A. **Authority to award emergency contracts.** The Board of Directors, by a four-fifths vote, may delegate, by resolution or ordinance, to the appropriate General Manager, administrative officer, District engineer, or other nonelected agency officer, the authority to order any emergency action to repair or replace a public facility or procure the necessary equipment, services and supplies for such purpose, without giving notice for bids to let contracts, when such actions are immediately necessary for the continued operation of the District or for the preservation of life or property.
- B. **Report to the Board.** If the person designated in Section 7(A) above orders any emergency action to repair or replace a public facility or procure the necessary equipment, services and supplies for such purpose, without giving notice for bids to let contracts, that person shall report to the Board of Directors within fourteen (14) days at its next regular meeting or, if necessary at a special meeting, the reasons justifying why the emergency will not permit a delay resulting from a competitive solicitation for bids and why the action is necessary to respond to the emergency.



- C. **Board approval of emergency action.** If an emergency is reported as described in this section, the Board shall initially review the emergency action at its next regularly scheduled meeting or at a special meeting if that regular meeting will occur later than fourteen (14) days after the action, and at least at every regularly scheduled meeting thereafter until the action is terminated, to determine, by four-fifths vote, that there is a need to continue the action, unless the person designated in Section 7(A) above has terminated that action prior to the governing body reviewing the emergency action and making a determination pursuant to this subsection. When the Board of Directors reviews the emergency action, it shall terminate the action at the earliest possible date that conditions warrant so that the remainder of the emergency action may be completed by giving notice for bids to let contracts.

### **2.03.080 Protest and Appeal of Procurement Actions**

- A. **Protest.** Vendors may protest any procurement actions involving formal sealed bids and competitive sealed proposals. The following procedures shall apply:
- (1) Any directly affected party who is aggrieved in connection with the solicitation or award of a purchase order or contract issued through a formal sealed bid procedure may protest the procurement action taken.
  - (2) Such protests must be filed in writing with the District within five (5) working days from the time of the occurrence giving rise to the protest. Protests received after this time will not be considered.
  - (3) Any protest shall include the date and action taken resulting in a protest, and identify the material issue, including a detailed explanation of the basis for the protest, and the remedy sought. Specification related protests must be fully supported by technical data test results, or other pertinent information.
- B. **Resolution Process.**
- (1) **Informal Resolution.** Upon receipt of protest, the Purchasing Agent will convene, at the earliest possible convenience, discussions between the protesting party and appropriate District staff to seek informal resolution and/or to clarify the issues.
  - (2) **Response to Protest/Appeal.** If the protest is not resolved by mutual agreement, the Purchasing Agent shall provide a written response to the protesting party within fifteen (15) working days following the informal meeting. The response shall state the Purchasing Agent's decision, the facts supporting the decision, and shall inform the protesting party of its right to appeal the decision to the Board of Directors.
- C. **Appeal to the Board of Directors.** In the event the informal resolution procedure is unsuccessful, the protesting party may request an appeal hearing before the Board of Directors by filing a written request with the Board Secretary no later than five (5) working days after notification of the Purchasing Agent's decision. Any appeal hearing shall be scheduled within thirty (30) working days from the date request is received by Board Secretary. The Board Secretary shall notify the appellant of the scheduled hearing date by placing such notice in the U.S. Mail, 1st class, not less than ten (10) working days from the

date of hearing. The appellant shall have the right to testify at the hearing, to be represented by counsel, to present witnesses on his/her behalf, and to present oral and written documents and evidence on the issue. The hearing shall be conducted in an informal manner and the rules of evidence shall not apply. After the conclusion of the hearing, the Board of Directors shall make findings of fact and a decision concerning the issue(s).

- D. **Stay of Procurement Action During a Protest.** In the event of a timely protest under this Section, the District shall not proceed further with the solicitation or the award of the contract or purchase order until the protest is resolved, unless the Purchasing Agent, in consultation with the head of the using department and District Counsel, makes a written determination that the award of the purchase order or contract without further delay is necessary to protect a substantial interest of the District.

### **2.03.090 Debarment of Vendors**

- A. **Debarment of Vendors.** The Board of Directors shall have the authority to debar a person(s), company, or corporation for cause from consideration for award of contracts.
- B. **Causes for Debarment.** Causes for debarment include, but are not limited, to the following:
- (1) Conviction of or civil judgment for:
    - (a) Commission of fraud or a criminal offense in connection with (i) obtaining, (ii) attempting to obtain, or (iii) performing a public contract or subcontract;
    - (b) Violation of antitrust statutes relating to the submission of bids or proposals;
    - (c) Commission of embezzlement, theft, forgery, bribery, collusion, falsification or destruction of records, making false statements, or receiving stolen property; or
    - (d) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a contractor or subcontractor.
  - (2) Violation of the terms of a public agency contract or subcontract so serious as to justify debarment, such as
    - (a) Willful or negligent failure to perform in accordance with the terms of one or more contracts; or
    - (b) A history of failure to perform, or of unsatisfactory performance of one or more contracts.
  - (3) For any other cause the Board determines to be so serious and compelling as to negatively affect responsibility as a District vendor, including debarment by another governmental entity.
  - (4) This Section shall not be construed to limit or prejudice any administrative or legal action available to the Board of Directors or the District.

### **2.03.100 Surplus Property**

- A. **Declaration of Surplus Property.** Only the Purchasing Agent has the authority to determine whether property owned by the District no longer has any useful value to the District. The Purchasing Agent has the authority to declare equipment and other property surplus if the

equipment has a current estimated market value of \$500 or less. If the current estimated market value exceeds \$500, or the property is recorded as a fixed asset, the Board of Directors has the sole authority to declare the property surplus.

- B. **Disposal of Surplus Property.** The Purchasing Agent is responsible for ensuring that the sale, lease, transfer, exchange, and disposal of surplus property is conducted in such a manner as to realize the maximum value possible from the sale or disposal of surplus property. The Purchasing Agent shall sell, lease, transfer, dispose of, or exchange surplus property in the manner authorized by the District Board of Directors, or as described below:
  - (1) The Purchasing Agent may contract with an auctioneer to conduct a District public auction, or with an auction service to arrange for the disposal of surplus property.
  - (2) For certain items valued at \$500 or less, the Purchasing Agent may conduct a publicly-advertised cash-only “garage sale” or may authorize disposal at a scrap or recycling facility in exchange for the scrap/recycling value.
  - (3) Surplus items that have no value, or when the labor, transportation and administrative cost to dispose of a surplus item exceeds the items value, the Purchasing Agent may discard the surplus item or otherwise dispose of the item, including giving the item to a school or charity within Napa County.
- C. **Prohibition Against Purchase by Employees.** The General Manager, Assistant General Manager, and Director of Administrative Services shall be prohibited from purchasing any District surplus property. Additionally, employees assigned the following duties within the District shall not, either directly or indirectly, bid or purchase surplus District property:
  - (1) Purchasing functions
  - (2) Responsible for surplus declarations
  - (3) Access to privileged information regarding the item or equipment or the value thereof, which is not available to all prospective bidders, or
  - (4) Assigned to the department having custody of the surplus property.
- D. **Trade-in Allowance**
  - (1) When purchasing property for which it is not required to advertise for bids, the Purchasing Agent is authorized to solicit and accept advantageous trade-in allowances for District property which has previously been declared surplus.
  - (2) Competitive bids for the purchase of property by the District may include a request for trade-in of equipment that has previously been declared surplus.
- E. **Proceeds from Disposition of Surplus Property.** Proceeds from the disposition of surplus property shall be deposited into the District’s Operating Fund for use by the District.

### **2.03.110 Other Rules & Regulations**

#### **A. Ethics Standards and Conflicts of Interest**

- (1) **Impartiality.** District employees shall discharge their duties impartially so as to assure fair access to governmental procurement by responsible vendors and service providers and to foster public confidence in the integrity of the District procurement process.

- (2) **No Conflicts of Interest.** No District employee shall participate in the selection process of a vendor or contractor when that employee has a familial or personal relationship with the person or business entity seeking a contract. Additionally, no contracts shall knowingly be issued to any current District employee or his/her immediate family, or to any former District employee or his/her immediate family, except a contract for training or support directly related to the former employee's job, until one year after separation; or as specified by the Fair Political Practices Commission and/or relevant California Government Code or Regulation. This includes individuals acting as agents or representatives. Upon discovery of an actual or potential conflict of interest, the employee shall promptly withdraw from further participation in the transaction involved and notify the Purchasing Agent or General Manager of the actual or potential conflict.
- (3) **No Gratuity.** District employees shall not solicit, demand, accept or agree to accept a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement, specification, standard or contract.
- (4) **No Special Consideration.** District employees, officers, or officials by virtue of their positions shall not be entitled to any special consideration from vendors or merchants in their personal affairs nor shall they attempt in their official capacities to procure goods, supplies, equipment or services for the private use of any other person, including any employee, officer, or official of the District.
- (5) **Cause for Discipline or Debarment.** The acceptance of any gratuity or special consideration by any official or employee of the District from any vendor is a violation of District policy and may be cause for disciplinary action. The offer of any such gratuity or special consideration to any officer or employee of the District by any vendor may be cause for declaring such individual or firm to be an irresponsible vendor and debarring such vendor from bidding or otherwise doing business with the District, in accordance with the section of this ordinance regarding debarment of vendors.

**B. Whistleblower Protection.**

- (1) If an employee feels that the Purchasing Agent or General Manager's actions or activity fall outside state law or these procurement policies, such employee shall notify the General Manager, Chair of the Board and/or District Legal Counsel for subsequent review and resolution.
- (2) Employees shall not be disciplined for making any notifications under this Whistleblower provisions, provided that the employee does so in good faith.

**C. Unauthorized Purchases.** Unauthorized purchases are not considered an obligation of the District and the individual making such purchases shall be held personally liable for the cost of the purchase. Unauthorized purchases are defined to include any of the following:

- (1) Any procurement made not in conformance with these policies, including any actions to circumvent the delegation of procurement authority.

- (2) Any procurement where the good or service is intended for personal use and not intended for use by the District.

**D. Local Business Participation.** Local business participation in District contracts is encouraged.

- (1) The District staff shall make every reasonable effort to contract with and obtain price quotations from local businesses for labor, supplies and materials on all contracts that are not required by law or this Ordinance to be competitively awarded.
- (2) On all public contracts that are required by law to be competitively bid, the District staff shall make every reasonable effort to encourage the participation of local businesses.
- (3) All notices inviting bids shall include language to the effect that it is the District's policy to encourage bidders to utilize local businesses whenever possible on District projects.

## Title 3 – Connections and Construction

### **3.01 Building Laterals, Street Laterals and Connections**

#### **3.01.010 Permit Required**

In accordance with Title 5 of this Code, no person shall construct a building lateral, street lateral or make a connection with any public sewer without first obtaining a written permit from the District and paying all fees and connection charges as required herein.

#### **3.01.020 Design and Construction Requirements**

Design and construction of building laterals and street laterals shall be in accordance with the requirements of the district and in accordance with the most recent District Standard Specifications.

#### **3.01.030 Separate Sewers**

Except as hereinafter provided, every building fronting on the same street or easement requiring sewer service shall be separately and independently connected with the public sewer; provided, however that where two or more buildings are on the same parcel, belonging to one owner, and which cannot legally be subdivided, separate connections need not be made with the public sewer. No two separate owners of adjacent parcels shall be permitted to join in the use of the same sewer lateral. Notwithstanding the provisions hereof, single family residential units with common walls, condominium, townhouse, stock cooperative, community apartment or other similar improvements, including commercial condominiums or other similar units, 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 General Manager, be permitted to maintain a common side sewer or sewers. Indemnification language approved by the District shall be included in the covenants, conditions and restrictions.

#### **3.01.040 Old Building Sewers**

Old building laterals may be used in connection with new buildings only when they are found, upon examination and testing, to meet all requirements of the District as determined by the District. If the laterals are not adequate, then the Applicant shall pay for all costs to reconstruct the laterals.

#### **3.01.050 Cleanouts**

Cleanouts in building laterals shall be provided in accordance with the current Uniform Plumbing Code, the City and/or County Plumbing Code, and the District Standard Specifications.

#### **3.01.060 Sewer Too Low**

In all buildings in which any building lateral is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building lateral shall be lifted by artificial means approved by the General Manager, and discharged to the public sewer at the expense of the owner. Private pumping

stations are disfavored design options that are only allowed where there is a showing of unusual circumstances, such as a technical infeasibility or significant hardship. The District Engineer must also find that they will not pose an unacceptable risk to the public sewer system. Supplemental permit conditions for privately owned pumping stations shall be required.

### **3.01.070 Connection to Public Sewer**

The connection of the side sewer into the public sewer shall be made in accordance with the current District Standard Specifications at the applicant's expense. The connection to the public sewer shall be made in the presence of a District Inspector and under his supervision and direction. Any damage to the public sewer shall be repaired in conformance with District Standard Specifications at the cost of the applicant.

### **3.01.080 Maintenance of Building Laterals and Side Sewers**

Building laterals shall be maintained by the owner of the property served thereby provided, however, that where a side sewer provides service to more than one single family residential unit in a development with common walls, condominium, townhouse, stock cooperative, community apartment or other similar improvements, including commercial condominiums or other similar units, 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. It shall be unlawful for any owner of the house, building, or property connected to a District public sewer to maintain a building drain or building lateral in a condition that prevents or impedes the cleaning or inspection of the public sewer and/or street lateral.

### **3.01.090 Testing**

All building laterals and street laterals shall be tested in accordance with current District Standard Specifications.

### **3.01.100 Installation and Maintenance Costs**

- A. All costs and expenses incident to the installation, connection, repair, maintenance, renovation, replacement, disconnection, reconnection or relocation of a building lateral, including cleanouts, backflow protection devices, pumps or other appurtenances (collectively, "installation and maintenance") shall be borne by the property owner and person causing the connection to be made, including but not limited to the costs of application, plan submittal, plan check, capacity charge, or any other fee or charge of District or any other entity related to the installation.
- B. In no event shall District be responsible by reason of approval of plans, issuances of licenses or permits, or allowance of connection to the Public Sewer for any harm, cost, loss or damage which may be occasioned by the installation or maintenance of the building lateral and the same shall be borne by the property owner or the person causing the connection to be made.

### **3.01.110 Right of Entry**

- A. Whenever the District determines it is necessary to make an inspection to enforce this code, or whenever there is reasonable cause to believe there exists a code violation in any building, or whenever District determines it is necessary to access any cleanout or other appurtenances for the purpose of cleaning, maintenance, operations, repair, rehabilitation or replacement of the street lateral and/or public sewer. Any authorized official of the District may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same, or to perform any duty imposed upon him by this code.
- B. Subject to the limitations of the United States Constitution and the California Constitution, where the property-owner or occupant has no reasonable expectation of privacy in a portion of their private property, the District has a right to perform an inspection, maintenance, or repair of that portion of the property without prior notification and without obtaining consent or an inspection warrant.
- C. Consent to entry for the purposes described in subdivision (A) shall be a condition of continuing use and connection to the public sewer. Failure by the property owner or occupant to give such consent may result in termination of District services.
- D. In the event the District sought prior consent to inspect the property but the property owner has refused entry, the District may request an inspection warrant from a duly authorized judge pursuant to California Code of Civil Procedure section 1822.50 et seq. at the sole cost of the property owner. Any person who willfully refuses to permit an inspection or abatement lawfully authorized by a warrant is guilty of a misdemeanor.
- E. In the event that any portion of the building lateral or street lateral is not accessible to the District due to actions or inaction by property owner or occupant, the District shall not be liable for any damage to personal property, building, or building lateral that may be caused by side sewer or public sewer operations (including overflows and backups), cleaning, maintenance, repair, rehabilitation or replacement activities. Examples of inaccessibility include, but are not limited to, locking cleanouts behind gates, covering or otherwise obscuring cleanouts or manholes, or not allowing District staff or authorized District contractors access to the property.

## **3.02 Public Sewer Construction**

### **3.02.010 Permit Required**

In accordance with Title 5 of this Code, no person shall construct, extend or connect to any public sewer without first obtaining a written permit from the District and paying all fees and connection charges and furnishing bonds as required therein. The provision of this section requiring permits shall not be construed to apply to contractors constructing sewers and appurtenances under contracts awarded and entered into by the District.



### 3.02.020 Design and Construction Standards

Minimum standards for the design and construction of sewers within the District shall be in accordance with the District Standard Specifications heretofore adopted by the Board, together with the subsequent amendments. Copies are on file at the District Office. The General Manager, may permit modifications or may require higher standards where unusual conditions are encountered.

### 3.02.030 Plans, Profiles and Specifications Required

The application for a permit for public sewer construction shall be accompanied by two (2) complete sets of plans, profiles and specifications, complying with all applicable ordinances, rules, and regulations of District, prepared by a Civil Engineer registered in the State of California, showing all details of the proposed work based on an accurate survey of the ground. The application, together with the plans, profiles and specifications shall be examined by the General Manager who shall within thirty (30) days approve them as filed or require them to be modified as he deems necessary for proper installation. After approval by the General Manager, the appropriate agreements shall be signed by the applicant and shall be submitted to the Board at its next regular meeting for its consideration. When the Board is satisfied that the proposed work is proper, it shall sign the agreement and allow the issuance of a permit predicated upon the payment of all connection charges, fees and the furnishing of bonds and deposits and two (2) complete signed sets of plans, profiles, and specifications as required by the District. The permit shall prescribe such terms and conditions as the Board finds necessary in the public interest.

- A. **Security Deposit Required.** Prior to the commencement of public sewer construction, the applicant shall file with the District a good and sufficient improvement security in an amount not less than the estimated cost of the work and improvements for the faithful performance of the terms and conditions as set forth in the construction plans and specifications and a good and sufficient security for payment of labor and materials equal to the amount of the faithful performance bond to secure the claims to which Reference is made in Title 15 of Part 4 of Division 3 of the Civil Code of the State of California (commencing with Section 3082).

Acceptable types of security are:

- (1) A bond or bonds by one or more duly authorized corporate sureties; or
- (2) A deposit with the District of cash in the form of a cashier's check or negotiable bonds of the kind approved for securing deposits of public moneys; or
- (3) An instrument of credit, in a form acceptable to the District's counsel, from an agency of the State, Federal, or local government when any such agency provides at least twenty percent of the financing for the portion of the act or agreement requiring security, or from one or more financial institutions subject to regulation by the state or federal government pledging that the funds necessary to carry out the agreement are on deposit and guaranteed for payment; or
- (4) A letter of credit, in a form acceptable to the District's counsel, issued by a financial institution subject to regulation by the state or federal government guaranteeing that all or any portion of the funds available pursuant to the letter of credit will be paid

upon written demand of the District and that such written demand need not present documentation of any kind as a condition of payment, including proof of loss.

- B. **Security Deposit Reduction.** The General Manager may authorize in writing the release of a portion of the security in conjunction with the acceptance of the satisfactory completion of a part of the improvements as the work progresses upon request by the applicant. The amount of reduction of the security shall be determined by the General Manager; however, in no event may the General Manager authorize a release of the improvement security which would reduce the security to an amount below that required to guarantee the completion of the improvements and any other obligation imposed by the State Subdivision Map Act, this ordinance, or the Subdivision Agreement.

The conditions for security deposit reduction are as follows:

- (1) The applicant shall be allowed to reduce the security deposit one time for each development project.
- (2) The applicant shall pay the District 1/8 of 1% (.00125) of the original security deposit amount with a minimum of \$150.00 to pay for the District's administration cost.
- (3) The District shall allow the security deposit to be reduced an amount equal to 80% of the value of the portion of the sanitary sewer facilities which have been installed and have passed final inspection, as determined by the General Manager.
- (4) The applicant shall be responsible for maintenance and operation of that portion of the sanitary sewer facilities for which the security deposit was reduced for one year after the entire project is accepted by the District Board for Maintenance and Operation.

- C. **Maintenance Security.** Upon acceptance by the District's Board of the sanitary sewer and/or recycled water improvements the developer shall provide security in the amount of 10% of the construction cost of the improvements to guarantee the improvements throughout the one year warranty period. If no deficiencies are detected at the end of the one year warranty period the maintenance security will be released.

### **3.02.040 Subdivisions**

The requirements of Sections 3.02.010 and 3.02.020 shall be fully complied with before the City or County shall approve any final subdivision map. The final subdivision map shall provide for the dedication for public use of streets, in which public sewer lines are to be constructed. If a final subdivision map of a tract is recorded and the work of constructing sewers to serve the tract is not completed within the time limit allowed in the permit, the Board may extend the time limit or may complete the work and take appropriate steps to enforce the provisions of the bond furnished by the subdivider.

### **3.02.050 Easements or Right of Way**

In the event that an easement is required for the extension of the public sewer or the making of connections, the applicant shall procure and have accepted by the General Manager a proper easement or grant of right of way having a minimum width of twenty (20) feet sufficient in law to allow the laying and maintenance of such extension or connection.

### **3.02.060 Persons Authorized to Perform Work**

Only properly licensed contractors shall be authorized to perform work of public sewer construction within the District. All terms and conditions of the permit issued by the District to the applicant shall be binding on the contractor. The requirements of this section shall apply to side sewer installed concurrently with public sewer construction.

### **3.02.070 Compliance with Local Regulations**

Any person constructing a sewer within a street shall comply with all state, county, or city laws, ordinances, rules and regulations pertaining to the cutting of pavement, opening, barricading, lighting and protecting of trenches, backfilling and repaving thereof and shall obtain permits and pay all fees required by the department having jurisdiction prior to the issuance of a permit by the District.

### **3.02.080 Record Drawings**

Prior to acceptance by the District's Board of any sanitary sewer and/or recycled water improvements, the project owner shall provide the District with a complete set of record drawings which shall include one set of full size drawings along with an electronic copy of the record drawings in a CAD format acceptable to the District.

### **3.02.090 Completion of Sewerage Works Required**

Before acceptance of any sewerage works by the District and prior to the admission of any sewage into the system: The sewerage works shall be tested and shall be complete and in full compliance with all requirements

### **3.02.100 Reimbursement Agreement**

Where the cost of the public sewer main extension has been deposited or paid by the person making such extension, the District may thereafter, but not for longer than ten (10) years after the date of such extension is originally connected to the District's sewerage system, collect from any person connecting to such extension, except the person originally installing such extension, that fraction of the cost of such extension, as approved by the District, as the amount of front footage owned by such person subsequently connecting to such extension bears to the total amount of front footage held by potential users along the extension as determined by the District as of the time the extension is connected to the District's sewer system. Such sums as are thus actually received by the District shall be paid by the District to the person originally making such extension, but the District shall in no way be obligated to assure that the person making such extension is paid the total cost thereof nor to initiate any action nor incur any expense to collect any sum to be paid such person; nor shall such Refund be made from any other revenues of the District. Where more than one person contributes toward the making of the extension, such sums as are actually collected shall be refunded to such persons, pro rata, according to the amounts which they severally contribute toward the cost of the extension and pursuant to the preceding plan.

### **3.02.110 Special Reimbursement Agreements**

Where special conditions exist, in the opinion of the District, relating to any agreement pursuant to Section 3.02.100 of this Code, they shall be the subject of a special contract between the District and the person making the public sewer main extension.

## **3.03 Permits**

### **3.03.010 Permit Required**

No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenances or perform any work on any street lateral or building lateral without first obtaining a written permit from the District.

### **3.03.020 Application for Permit**

Any person legally entitled to apply for and receive a permit shall make such application on forms provided by the District for that purpose. Applicant shall give a description of the character of the work proposed, and the location, ownership, occupancy and use of the premises in connection therewith. The General Manager may require plans, profiles, specifications or drawings and such other information, as deemed necessary. This section does not apply to Title 4 – Sewer Use of this Code.

If the General Manager determines that the plans, profiles, specifications, drawings, descriptions or information furnished by the applicant is in compliance with the ordinances, rules and regulations of the District, the applicant shall be issued a permit upon payment of the required fees as hereinafter fixed.

### **3.03.030 Installation Permits and Fees**

No public sewer, side sewer, building lateral or other sewerage facility shall be installed, altered or repaired within the District until a permit for the work has been obtained from the District and all fees paid in accordance with the requirements of the ordinances, rules and regulations of District.

### **3.03.040 Performance Guarantee-Public Sewer Construction**

The applicant shall post a surety bond, cash or other security satisfactory to the District to guarantee the faithful performance of any agreement for public main extension entered into with the Board. Said surety bond, cash or security shall be in the sum of one hundred percent (100%) of the estimated costs of the work, or in such other sum as may be fixed by the Board, and shall in addition to guaranteeing the faithful performance of the work, guarantee the maintenance of the sewer main for a period of one year following the completion and acceptance of the work by the District.

### **3.03.050 Compliance with Permit**

After approval of the application, evidenced by the issuance of a permit, no changes shall be made in the location of the sewerage works, the grade, materials, or other details from those

described in the permit or as shown on the plans and specifications for which the permit was issued, except with the written permission from the General Manager.

### **3.03.060 Agreement**

The applicant's signature on an application for any permit shall constitute an agreement to comply with all of the provisions, terms and requirements of this and other ordinances, rules and regulations of the District, and with the plans and specifications he has filed with his application, if any, together with such corrections or modifications as may be made or permitted by the District, if any. Such agreement shall be binding upon the applicant and may be altered only by the District upon the written request for the alteration from the applicant. This section does not pertain to Section 4.04 of this Code.

### **3.03.070 Contractor Requirements**

Contractors working in the public right-of-way or District easements or on facilities that will be dedicated to the District upon completion, are required to have a valid Class A California contractor's license, an active Cal-OSHA T-1 annual trench/excavation permit, and shall be bonded with the District. The bonding requirement may be waived by the District for projects bonded for by an owner or developer.

### **3.03.080 Public Right-of-Way Excavation Permit**

A separate permit must be secured from the County and/or City or any other agency having jurisdiction thereover by owners or contractors intending to excavate in a public Right-of-Way for the purpose of installing sewers or making sewer connections.

### **3.03.090 Failure to Obtain Permit**

In the event any part of the side sewer is installed without the issuance of a permit and the inspection of said sewer, the fee for the issuance of said permit and the inspection of said sewer shall be double the amounts herein provided, plus an additional fee of \$100.00.

### **3.03.100 Liability**

The District and its officers, agents and employees shall not be answerable for any liability, injury, or death to any person or damage to any property arising during or growing out of the performance of any work by such applicant. The applicant shall be answerable for, and shall save the District and its officers, agents and employees harmless from any liability imposed by law upon the District or its officers, agents or employees, including all costs, expenses, fees and interest incurred in defending same or in seeking to enforce this provision. Applicant shall be solely liable for any defects in the performance of his work or any failure which may develop therein.

## **3.04 Inspections**

### **3.04.010 Plumbing and Sewers on Private Property**

The installation, use, maintenance, repair and inspection of all plumbing and sewers inside private property shall be subject to and governed by the most recent version of the California Building Code as adopted by City or County ordinance, now existing or as hereafter amended, except the District will inspect building sewers to insure proper line, grade and tightness of joints for infiltration/inflow control.

**3.04.020 All Work to be Inspected**

All sewer construction work shall be inspected by an inspector acting for the District to insure compliance with all requirements of the District. No sewer shall be covered at any point until it has been inspected and passed for acceptance. No sewer shall be connected to the District's public sewer until the work covered by the permit has been completed, inspected and approved by the inspector.

For public sewer construction, the owner or owners and/or contractor shall deposit with the General Manager a sum to be fixed by the General Manager prior to commencement of work. Said sum shall be estimated to equal the cost of inspecting said work and other expenses regularly incurred in connection therewith. The amount to be charged for inspection shall be on a lineal footage basis on all lines of 6" diameter or more and a flat fee for 4" street laterals established by resolution adopted by the Board of Directors of the District. Should the amount of the deposit be insufficient to pay such costs incurred by the District, the owner or owners and/or contractor shall advance such additional sums as shall be necessary to pay said costs prior to the final inspection of work.

**3.04.030 Notification**

It shall be the duty of the person doing the work authorized by permit to notify the District that said work is ready for inspection. Such notification shall be given not less than twenty-four (24) hours, Saturdays, Sundays and Holidays excluded, before the work is ready to be inspected. It shall be the duty of the person doing the work to make sure that the work will pass the tests required by the District before giving the above notification.

**3.04.040 Condemned Work**

When any work has been inspected and the work condemned, a written notice to that effect shall be given instructing the owner of the premises, or the agent of such owner, to repair the sewer or other work authorized by the permit in accordance with the ordinances, rules and regulations of the District.

**3.04.050 All Costs Paid by Owner**

All costs and expenses incident to the installation and connection of any sewer or other work for which a permit has been issued shall be borne by the owner. The owner shall indemnify the District from any loss or damage that may directly or indirectly be occasioned by the work.

## Title 4 - Sewer Use

### **4.01 General Provisions**

#### **4.01.010 Rules and Regulations**

The following rules and regulations respecting sewer construction and disposal of sewage and drainage of buildings and connection to the sewage works of the District are hereby adopted, and all work in respect thereto shall be performed as herein required and not otherwise.

#### **4.01.020 Purpose**

District Code is intended to provide rules and regulations for the use and construction of sanitary sewer facilities hereafter installed, altered or repaired within the District. District Code shall not apply retroactively, and in the event of an alteration or repair hereafter made, it shall apply only to the new materials and methods used herein.

#### **4.01.030 Intentionally Omitted**

#### **4.01.040 Violation Unlawful**

Following the effective date of this ordinance, it shall be unlawful for any person to connect to, construct, install or provide, maintain and use any other means of sewage disposal from any building in said District except by connection to a public sewer in the manner as in this ordinance provided, unless a waiver is granted by the General Manager.

#### **4.01.050 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 provision complained of, and requesting suspension or modification of that provision as applied to his premises. If such application be approved, the Board may, but only to the extent compatible with State and Federal laws, rules and regulations pertaining to wastewater facilities constructed, in part, with grant funds, 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.

#### **4.01.060 Relief on Own Motion**

The Board may, on its own motion, find that by reason of special circumstances any provision of this Code should be suspended or modified as to a particular premise, but only to the extent compatible with State and Federal laws, rules and regulations pertaining to wastewater facilities constructed, in part, with grant funds, and may by resolution, order such suspension or modification for such premise during the period of such special circumstances or any part thereof.

#### **4.01.070 User Permit**

No contributory industry shall be allowed to discharge wastewater until a user permit has been obtained from the District and all fees paid in accordance with the ordinances, rules and regulations of the District.

### **4.02 Use of Public Sewers Required**

#### **4.02.010 Disposal of Waste**

It shall be unlawful for any person to place, deposit, or permit to be deposited in an unsanitary manner upon public or private property within the District, or in any area under the jurisdiction of said District, any human or animal excrement, garbage, or other objectionable waste.

#### **4.02.020 Treatment of Wastes Required**

It shall be unlawful to discharge to any stream or watercourse any sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this ordinance.

#### **4.02.030 Unlawful Disposal**

Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, seepage pit or other facility intended or used for the disposal of sewage.

#### **4.02.040 Occupancy Prohibited**

No building, industrial facility, or other structure shall be occupied until the owner of the premises has complied with all rules and regulations of District and/or applicable regulations of City or County.

#### **4.02.050 Sewer Required**

The owner of any building situated within the District and abutting on any street in which there is now located or may in the future be located a public sewer of the District, is hereby required at his expense to connect said building directly with the proper public sewer in accordance with the provisions of this ordinance, within ninety (90) days after date of official notice to do so, provided that said public sewer is within two hundred (200) feet of the nearest building on the property; provided, however, that where territory is annexed to the District upon which existing improvements are located which are served by a satisfactorily operating and maintained septic tank, the owner may continue to dispose of waste to said septic tank so long as it remains in operating condition to the satisfaction of the County Health Officer or until any additional building or buildings or any division of the property is proposed at which time connection to the public sewer shall be required.

### **4.03 Private Sewage Disposal**

#### **4.03.010 Sewer Not Available**



Where a public sewer is not available under the provisions of Section 305, the building sewer shall be connected to a private sewage disposal system, in accordance with the requirements of the office of the Napa County Environmental Management.

**4.03.020 Permit Required**

Before commencement of construction of a private disposal system, the owner shall first obtain a written permit from the Health Department of the City or County.

**4.03.030 Inspection Required**

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the City and/or County. City and/or County shall be allowed to inspect the work at any stage of construction and in any event, the applicant for the permit shall notify the City and/or County when the work is ready for final inspection, and before any underground portions are covered.

**4.03.040 Design Requirements**

The type, capacities, locations and layout of a private sewage disposal system shall comply with all recommendations of the Department of Public Health of the State of California and the Health Department of County and/or City. No septic tank or cesspool shall be permitted to discharge to any stream or watercourse.

**4.03.050 Abandonment of Facilities**

At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Section 305, a direct connection shall be made to the public sewer in compliance with the ordinances, rules and regulations of District, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material as determined by County and/or City Health Department.

**4.03.060 Cost of Maintenance by Owner**

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the District.

**4.03.070 Additional Requirements**

No statement contained in this Title shall be construed to interfere with any additional requirements that may be imposed by any law, ordinance, rule or regulation or by the Health Department of the State or of the City or County.

**4.04 Sewer Use Regulations**

**4.04.010 Objective**

It is the objective of the Napa Sanitation District to regulate and control the quantity and quality of the discharges into the sewer system so that they will not adversely affect the various

collection, transmission, treatment, discharge requirements, environmental conditions; enhance opportunities to recycle and reclaim treated effluent and wastewater sludge, and permit the District to treat wastewater to meet requirements of the Federal Government and the State of California and their designated agencies.

Adverse effects can include but are not limited to:

- 1) Health and safety of personnel employed in the operation and maintenance of the sewage collection, transmission, and treatment facilities.
- 2) The operational cost, maintenance and durability of collection, transmission and treatment facilities.
- 3) The quality of the receiving waters with respect to requirements established by the Federal Government and the State of California through their properly designated and responsible agencies.
- 4) The air quality and pollution abatement requirements established by the Federal Government and the State of California through their properly designated and responsible agencies.
- 5) Damage, deterioration or excessive maintenance costs to sewage collection, pumping, and treatment or disposal facilities.

It is the general intent of the Napa Sanitation District to provide collection and treatment of domestic sanitary sewage and for commercial and industrial wastewaters that do not adversely affect the objectives stated hereinbefore and to provide equitable charges for the costs incurred.

#### **4.04.020 Authority**

This regulation is adopted under authorization of the County Sanitation District Act, Section 4700 et. seq., of the Health and Safety Code of the State of California, and Section 5470 et. seq. of said Code.

#### **4.04.030 Legal Authority for Napa Sanitation District (NSD) Industrial User Permit Program and Permit Issuance Procedures**

NSD has authority over all Industrial Users contributing wastewater to the POTW. This Code provides the authority to issue control mechanisms, conduct compliance monitoring activities, and, when warranted, take appropriate enforcement action in response to noncompliance by Users located within the District boundaries.

- A) The POTW may deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by IUs where such contributions do not meet applicable Pretreatment Standards and Requirements or where such contributions would cause the POTW to violate its discharge permit. (40CFR 403.8)

- B) All Industrial Users (IUs) must maintain consistent compliance with applicable Pretreatment Standards and Requirements. (40CFR 403.8)

**4.04.040 Discharge Permits Elements**

Every SIU and any other IU deemed necessary by the Napa Sanitation District must be issued a permit. The minimum components contained within the permit are (40CFR 403.8):

- A) Statement of duration of permit (in no case more than 5 years) (40CFR 403.8)
- B) Statement of non-transferability without, at a minimum, prior notification to the District and provision of a copy of the existing control mechanism of the new owner or operator (40CFR 403.8)
- C) Effluent limits, including Best Management Practices, based on applicable general Pretreatment Standards in 40CFR part 403, categorical Pretreatment Standards, local limits, and State and local law (40CFR 403.8)
- D) Best Management Practices.....(40CFR 403.8)
- E) Self-monitoring, sampling, reporting, notification and record keeping requirements, including an identification of pollutants (or best management practice) to be monitored (including the process for seeking a waiver for a pollutant neither present nor expected to be present in the discharge in accordance with 40CFR 403.12, or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type, based on the applicable general Pretreatment Standards in 40CFR part 403., categorical Pretreatment Standards, local limits, and State and local law. (40CFR 403.8)
- F) Statement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines (40CFR 403.8;
- G) Requirements to control slug discharges, if determined by the District to be necessary. (40CFR 403.8)
- H) Any grant of the monitoring waiver by the POTW must be included as a condition in the User’s permit or other control mechanism.
- I) A User with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit reissuance by submitting a complete permit application, in accordance with this ordinance, a minimum of 90 days prior to the expiration of the User’s existing individual wastewater discharge permit.
- J) Permit Modification - The permit may be modified for good causes including, but not limited to, the following:

- 1) To incorporate any new or revised Federal, State, or local pretreatment standards or requirements
  - 2) Material or substantial alterations or additions to the discharger's operation processes, or discharge volume or character which were not considered in drafting the effective permit
  - 3) A change in any condition in either the IU or the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge
  - 4) Information indicating that the permitted discharge poses a threat to the District's collection and treatment systems, POTW personnel or the receiving waters
  - 5) Violation of any terms or conditions of the permit
  - 6) Misrepresentation or failure to disclose fully all relevant facts in the permit application
  - 7) Revision of or a grant of variance from such categorical standards pursuant to 40CFR 403.13
  - 8) To correct typographical or other errors in the permit
  - 9) Upon request of the permittee, provided such request does not create a violation of any applicable requirements, standards, laws, or rules and regulations.
  - 10) The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notice of planned changes or anticipated noncompliance, does not stay any permit condition.
- K) Permit Revocation/Termination - The General Manager may revoke an individual wastewater discharge for good cause, including, but not limited to, the following reasons:
- 1) Failure to notify the General Manager of significant changes to the wastewater prior to the changed discharge;
  - 2) Failure to provide prior notification to the General Manager of changed conditions pursuant to Section 6.5 of this ordinance;
  - 3) Misrepresentation or failure to disclose fully all relevant facts in the wastewater discharge permit application;
  - 4) Falsifying self-monitoring reports and certification statements;
  - 5) Tampering with monitoring equipment;
  - 6) Refusing to allow District staff immediate entry or access to the facility premises and records when requested;
  - 7) Failure to meet effluent limitations;

- 8) Failure to pay fines;
  - 9) Failure to pay sewer charges or capacity charges;
  - 10) Failure to meet compliance schedules;
  - 11) Failure to complete a wastewater survey or the wastewater discharge permit application;
  - 12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
  - 13) Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit or this ordinance.
- L) Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions set out in this ordinance within the time limitations specified by EPA, the State, or the General Manager, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to General Manager for review, and shall be acceptable to General Manager before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to District under the provisions of this ordinance.
- M) Duty to Halt or Reduce Activity - Upon reduction of efficiency of operation, or loss or failure of all or part of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control its production or discharges (or both) until operation of the treatment facility is restored or an alternate method of treatment is provided.
- N) The sampling chain of custody shall be submitted with the facility monitoring data.

**4.04.050 Compliance Schedule**

The District may require from any IU a compliance schedule for the installation of technology required to meet applicable Pretreatment Standards and Requirements and submit all notices and reports from IUs including, but not limited to, the reports required in this Ordinance.

**4.04.060 Right of Entry**

Representatives of the District, bearing proper credentials and identification, shall immediately be permitted to enter all properties served by the District for the purpose of inspection, surveillance, observance, and monitoring procedures (including measurement, sampling, and testing). This includes authority to enter any Industrial User discharge source, treatment system or record keeping location with authority to inspect and copy records.

#### **4.04.070 Remedies for Noncompliance**

The District may obtain remedies for noncompliance by any IU with any Pretreatment Standard and Requirement including Injunctive Relief, Civil and Criminal Penalties, Judicial Relief, termination of service, etc. as detailed in the enforcement provisions contained within this Ordinance.

#### **4.04.080 Discharge Permits**

Each User shall be classified as Categorical Industrial User, Significant Industrial User, Commercial, Non-Residential User, or Domestic User. Each User, with the exception of Domestic User, may be required to possess a waste discharge permit issued by the District.

Non-Residential Users may be exempted from the permit requirements of this article at the discretion of the General Manager if they are known to discharge only domestic sanitary sewage (as defined).

Users required to obtain a waste discharge permit shall complete, and file with the General Manager, a permit application accompanied by the appropriate fees.

Upon determining that an Industrial User (IU), meeting the definition of a significant non-categorical IU, has no reasonable potential for adversely affecting the District's operation or for violating any pretreatment regulations, the District may determine that such IU will not be required to be permitted by the District's pretreatment program.

Long-term permits shall be renewed as per Sec. 4.04.040. Short-term permits shall be renewed as defined in each individual permit.

#### **4.04.090 Best Management Practices (BMP)**

The District may develop BMPs by ordinance or in Permits to implement the prohibitions in Section 4.04.110. Such BMPs shall be considered Local Limits and Pretreatments Standards. Industrial Users shall provide documentation necessary to determine compliance with applicable BMPs within the Baseline Monitoring Reports required under Section 4.04.190(A), the Report on Final Compliance required under Section 4.04.190(C), the Periodic Reports on Continued Compliance required under Section 4.04.190(D), the Reports Required by Non-Categorical Industries required under Section 4.04.190(G), and the Monitoring and Analysis Reports required under section 4.04.190(F).

#### **4.04.100 Acceptable Wastes**

**Domestic Sanitary Sewage.** The following parameters are the typical physical, chemical, and biological characteristics of domestic sanitary sewage:

<b>Waste Characteristic</b>	<b>Typical Concentration</b>
Total Dissolved Solids	500 mg/L
Turbidity	250 JTU/NTU
Color	500 CU
Biochemical Oxygen Demand	175 mg/L
Chemical Oxygen Demand	500 mg/L
Suspended Solids	200 mg/L
Settleable Solids	10 mg/L
Sulfide	0.5 mg/L
Grease (vegetable based)	75 mg/L
Detergent (MBAS)	10 mg/L
Ammonia	20 mg/L
Phosphate (Total)	25 mg/L

**4.04.110 Prohibited Wastes**

Except as provided below, no person shall discharge or cause to be discharged any of the following water or wastewaters into public sewers:

**A) General Prohibitions**

A User may not introduce into the POTW any pollutant(s), which cause Pass Through or Interference. These specific prohibitions and the general prohibitions apply to each User introducing pollutants into the POTW whether or not the User is subject to other National Pretreatment Standards or any Federal, state, or local pretreatment requirements. (40CFR 403.5)

**B) Application of Most Stringent Limitation**

The most stringent regulations or standards: Federal, State, Regional, or local shall apply.

**C) Specific Prohibitions**

The following pollutants shall not be introduced into the POTW:

**1) Fire or Explosive Hazard**

Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140oF or 60oC using the test methods specified in 40CFR 261.21. (40CFR 403.5)

**2) pH/Corrosion**

Pollutants which will cause corrosive structural damage to the POTW, but in no case Discharges with pH lower than 6.0 or greater than 9.0, unless the works is specifically designed to accommodate such Discharges; (40CFR 403.5)

### **3) Obstructions**

Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference. Such substances include but are not limited to, ashes, asphalt, bones, cinders, cement, containers, cups, dead animals or animal parts, diatomaceous earth, entrails, fats, feathers, garbage, glass, gloves, grease, hair, hides, industrial process shavings, leaves, lees, metal, milk containers, mud, offal, oil, paper dishes, paper cups, plants, plastics, paunch manure, rags, resins, rocks, sand, sawdust, seeds, shavings, stems, straw, straws, tar, whole blood, wood, wool, etc. either whole or ground by a garbage grinder. (40CFR 403.5)

### **4) Pollutant Causing Interference**

Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause Interference with the POTW.

### **5) Temperature**

Heat in amounts, which will inhibit biological activity in the POTW resulting in Interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40oC (104oF) unless the Approval Authority, upon request of the POTW, approves alternate temperature limits. (40CFR 403.5)

### **6) Mineral Oil**

Any waters or wastes containing petroleum oil, non-biodegradable cutting oil, or products of mineral origin in amounts that will cause Interference or pass through. (40CFR 403.5)

### **7) Toxic Gases/Vapors/Fumes**

Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems: (40CFR 403.5)

### **8) Trucked/Hauled Waste**

Any trucked or hauled pollutants, except at discharge points designated by the POTW. (40CFR 403.5)

## **D) Limitations on Point of Discharge**

No person shall discharge any substances directly into a manhole or other opening in a public sewer other than through an approved building sewer, unless the discharger has been issued a permit by the District designating the discharge location. If a permit is issued for such direct discharge, the User shall pay the applicable charges and fees and shall meet such other conditions as required by the District.



## **E) Conditions on Acceptance of FOG**

- 1) Fats, oil and grease shall not be considered a Prohibited Waste as defined in this Code, as long as the waste is produced by a food service establishment and is delivered to the District's FOG receiving station by a permitted waste hauler. In all other ways, waste haulers must comply with this Code, including Section 4.04.130 regulating hauled waste.
- 2) The District shall issue waste discharge permits for FOG hauling in accordance with this Code. The District may issue permits to accept hauled FOG from transportation companies that are permitted by Napa County Environmental Services for the collection and transportation of FOG from food service establishments.
- 3) The fats, oil and grease accepted shall conform to the Local Limits as established by the Board of Directors in Section 4.04.110(F) of this Code. All would apply with the following exceptions:
  - a) Oil & Grease for polar only
  - b) Oil & Grease concentration limit is none
- 4) Hauled FOG waste shall contain only FOG generated from food service establishments and shall not be mixed with domestic waste or any other waste type.
- 5) The District reserves the right to refuse acceptance or require scheduled delivery of any hauled waste, including FOG, if doing so would be in the best interest of the operation of the wastewater treatment facility. This determination may be made by the General Manager, the Chief Plant Operator, or any designee without any prior notice being required.
- 6) The General Manager, or designee of the General Manager, shall have the authority to establish operating regulation and procedures, including the issuing of permits to haulers, to ensure the efficient and effective operation of the FOG receiving station in accordance with District Code and to protect the integrity of the wastewater treatment plant.

## **F) Local Limits**

### **1) Discharge Limit Development**

As required in this section and pursuant to 40CFR 403.8, the Control Authority, (Napa Sanitation District), continually develops and enforces specific limits to implement the prohibitions listed in 40CFR 403.5 including the local limits.

## 2) Toxic Substances

Any waters or wastes containing a toxic or poisonous substance in sufficient quantities to injure or interfere with or create any hazard in the sewage treatment process, effluent quality, sludge quality, or receiving water quality requirements to humans, animals or plant life. The following "local limits" comprises a partial list of toxic pollutants of concern (and others designated pursuant to section 307(a)(1) of the Act) and their maximum concentration allowable by any discharger for admission into the sewerage system:

## 3) Local Limits

Any Industrial User who discharges directly into the sanitary sewer will abide by the following local limits in the following table:

Local Limit Constituent	Daily Maximum Uniform/Concentration Limit	
	(mg/L) milligrams/Liter	(ug/L) micrograms/Liter
Aluminum	5.000	5000
Ammonia	36	36000
Antimony	0.702	702
Arsenic	0.025	25
Beryllium	0.1	100
Boron	0.63	630
Cadmium	0.016	16
Chloride	225	225000
Chromium (VI)	0.538	538
Chromium (Total)	1.13	1130
Cobalt	0.05	50
Copper	0.388	388
Cyanide	0.03	30
Fluoride	1	1000
Iron	5	5000
Lead	0.102	102
Manganese	1.15	1150
Mercury	0.0057	5.7
Molybdenum	0.048	48
Nickel	0.043	43
Oil & Grease (polar/non-polar)	75/50	75000/50000
PAH(a)	0.72	720
pH (Standard Units)	6.0-9.0 SU	6.0-9.0 SU
Phenol	0.09	90
Salinity	1.5 dS/cm	1.5 dS/cm
Selenium	0.026	26
Silver	0.224	224

Sodium	90	90000
Sulfide, dissolved	0.1	100
Thallium	0.999	999
TDS	836	836000
Vanadium	0.1	100
Zinc	0.762	762

(a) The PAH Local Limit is based upon the polyaromatic hydrocarbon (PAH) compounds identified within the promulgated EPA 625 method and is defined as the cumulative sum of the defined 625 method analytes.

The maximum allowable concentration of toxic or potentially toxic materials not listed above will be determined on an individual basis.

### **G) Local Prohibitions**

#### **1) Stormwater, Surface Water, Groundwater, or Uncontaminated Water**

No person shall discharge, cause or allow or permit any rainwater, storm water, groundwater (with exceptions, see Section 4.04.110(G)(2)), street or yard drainage, subsurface drainage, water from rainwater leaders or downspouts, yard fountains, ponds or lawn sprays, or any other uncontaminated water into the sanitary sewer system.

No plumbing or piping shall be connected or designed in such a manner as to make possible the discharge of storm, surface and underground waters into the sanitary sewer system.

#### **2) Groundwater and Surface Cleaning Projects**

Wastewater generated from the cleanup of spills, leaking underground storage tanks, monitoring wells, surface cleaning operations, or other similar source shall not be discharged through direct or indirect connections to the sanitary sewer without a temporary discharge permit issued by the District.

#### **3) Non-contact Cooling Water and Swimming Pool Water**

Uncontaminated cooling water or swimming pool water unless special permission has been granted by the General Manager. Discharge may be allowed to the sewer system at the discretion of the General Manager after obtaining a permit from the District. Applicable fees shall apply.

#### **4) Garbage**

Any garbage excepting properly shredded garbage from dwellings or restaurants engaged in preparation of foods and beverages for consumption is prohibited.

**5) Floor Drains**

No floor drains may be installed in a facility without special approval from the District.

**6) Suspended Solids**

Any industrial or commercial process water or wastes containing suspended solids of such character and quantity whereby unusual attention or expense is required to handle such material in the sanitary sewer as well as at the sewage treatment facility.

Suspended solids discharged in industrial process wastewater shall have a dimension no larger than that of a 1/4-inch mesh.

**7) Pretreatment Sludge**

Sludge from treatment facilities, settling or holding ponds, solids from soils testing, etc. is prohibited for discharge to the sanitary sewer as well as the sewage treatment facility.

**8) Non-degradable Wastes**

Any water or wastes containing substances which are not amenable to treatment or which cause the treatment plant effluent to fail to meet any discharge requirements established by the State of California or the United States Federal Government.

**9) Chemical Pesticides and Similar Toxicants**

No chlorinated hydrocarbon, organophosphate or similar chemical compounds used as algaecides, bactericides, fungicides, herbicides, insecticides, or pesticides shall be discharged into the sewerage system in any concentration except as specifically approved by a written permit.

**10) Oxidizing and Reducing Agents**

Strong oxidizing and reducing agents shall not be discharged into the sewerage system at concentrations exceeding 5 mg/L except by special District-issued permit: Chlorine, Chlorine Dioxide, Potassium Permanganate, Ozone and other strong oxidants, Sulfite, Thiosulfate, Nitrite and other strong reducing agents.

**11) Radioactive Wastes**

Radioactive wastes of any kind, except where:

- a) The person is authorized to use radioactive materials by the State of California Department of Public Health, Atomic Energy Commission, or other governmental agency empowered to regulate the use of radioactive materials;
- b) The waste is discharged in strict conformity with current California Radiation Control Regulations (California Administrative Code, Title 17) State of California

Department of Public Health, Atomic Energy Commission, or other governmental agency empowered to regulate the use of radioactive materials;

- c) The person discharging the radioactive waste assumes full responsibility for any injury to personnel or damage to the sewerage system that may result from such discharge;
- d) Radioactivity of the treated wastewater prior to disposal does not exceed limits established by the designated agencies of the State of California; and
- e) Residual radioactivity is within limits permitted by State or local regulation in final disposal.
- f) Any person discharging a radioactive waste to the sewerage system in accordance with the provisions of the preceding sections shall apply for a permit from the District to discharge such wastes, and submit a periodic report of discharge occurrences and quantities. In the event of an accidental spill of any radioactive material into the sewerage system, the person responsible shall immediately notify the General Manager.

## **12) Unusual Water Concentrations**

Materials that exert or cause:

- a) Unusual concentrations of inert suspended or dissolved solids.
- b) Excessive discoloration.
- c) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment plant.
- d) Unusual volume of flow, including slug discharges.
- e) Oxygen demanding pollutants discharged at a concentration or volume that will cause Interference.
- f) Pollutants in quantities at a concentration or volume that may cause excessive foaming in the treatment works or POTW discharge.

## **13) Medical Waste**

Human or veterinary hospitals, clinics, offices of medical doctors, medical laboratories, medical facilities, production facilities, pharmaceutical/research institutions, mortuaries, morgues, funeral parlors, animal shelters, tattoo parlors and convalescent homes shall not discharge to the sanitary sewer the following:

- a) Solid wastes including, but not limited to gloves, instruments, utensils, hypodermic needles, syringes or other paper and plastic items of a disposable nature. This applies to households as well.
- b) Any article that may harbor or transmit pathogenic organisms and that is used in the rooms of patients having a suspected or diagnosed communicable disease, which by the nature of the disease is required to be isolated.
- c) Recognizable portions of the human anatomy.
- d) Waste excluded by other provisions of these regulations.
- e) Any hazardous waste, both California-only hazardous wastes and federal hazardous wastes
- f) Liquid and solid medications or pharmaceutical wastes, such as IV bags containing biologically active materials (e.g., antibiotics, painkillers, and antineoplastics) and controlled substances. This also includes all substances that may be determined an endocrine disruptor.
- g) Pharmaceuticals shall not be disposed of in the sanitary sewer. Waste pharmaceuticals, including over-the-counter medications, shall be disposed of properly such as at take-back events, pharmacies, or taken to the household hazardous waste facility for proper disposal. Controlled substances shall be disposed of as determined by the proper authorities, but may not be disposed into the sanitary sewer.
- h) Undisinfected tissue fluid, diseased human or animal organ tissue, undisinfected whole blood, or other contaminated solid waste.

Nothing in this section shall be construed to limit the authority of appropriate health agencies to define wastes as being infectious and to prohibit discharge to the sanitary sewer. The District shall also have the authority to require that any discharge of an infectious waste to the sewer be rendered non-infectious prior to discharge if the infectious waste is deemed to pose a threat to the public health and safety, or will result in any violation of applicable waste discharge requirements.

#### **4.04.120 Restricted Waste Discharges**

Any substance in any commercial or industrial waste discharge which may result in operational costs and maintenance of POTW facilities in excess of that required for normal domestic sanitary sewage of waste concentrations as listed in Section 4.04.100, or with any of the prohibited waste characteristics as listed in Section 4.04.110, and/or having an average daily flow greater than one quarter of one percent (1/4 %) of the average daily dry weather flow of the District shall be subject to the review and approval of the General Manager. The discharges shall provide any of the following restrictions as approved by the General Manager for acceptance of the wastewater into the sewer system.

**A) Pretreatment**

Pursuant to Section 307(b) of the Clean Water Act [33 U.S.C. 1251 et. seq.], as amended, all pretreatment for incompatible pollutants discharged at each industrial plant site to the public sewer shall be consistent with Federal Categorical Pretreatment Standards in 40CFR Subchapter N.

**B) Flow Control**

General Manager reserves the right to require flow equalization and/or flow volume control.

**C) Surcharge Payment**

Require a payment, in an amount established by the Board to cover the added cost of handling and treating wastes. If the General Manager requires pretreatment or flow equalization, the design and installation of the facility and equipment shall be subject to the review and approval of the District and no construction of such facilities shall commence until said approval is obtained in writing.

**D) Damage Caused by Discharge**

When the discharge of any Industrial or commercial waste causes an obstruction, damage or other impairment to the POTW, the General Manager may assess a reasonable charge against the discharger for the work required to clean or repair the facility.

**E) Limitations of Discharge Quantity and Rate of Discharge**

The General Manager may limit the quantity and rate of any waste discharge, when in the General Manager's best professional judgment, the capacity of any part of the POTW would be overtaxed by the discharge, or the quantity or rate of discharge would impose a disproportionate cost to the operation of the POTW. In addition to commercial and industrial waste discharges, the provisions of this paragraph shall apply to all other non-domestic sanitary sewage. Discharge of any waste covered by this Section shall not be discharged into the POTW until after specific approval of the quantity and procedures proposed has been granted by the General Manager.

**F) Disposal of Unacceptable Wastes**

The disposal of wastes not permitted to be discharged into the POTW, including, but not limited to, sludge, spent chemicals, and hazardous materials, shall be done in accordance with all applicable Federal, State and local laws, regulations and ordinances including: Section 405 of the Clean Water Act (CWA); Subtitles C & D of the Resource Conservation and Recovery Act (RCRA); and Title 22, Division 4, Chapter 30 of the California Administrative Code (CAC). A record or manifest of disposal shall be maintained and available for review by the District. The required "Waste Haulers Report" must be completed and a copy furnished within 30 days to the District by the discharger.

#### **4.04.130 Hauled Waste**

##### **A) Hauled Waste Discharges**

The General Manager may allow the discharge of hauled waste into the POTW at the treatment plant. All hauled discharges must meet all applicable Federal, State, and local pretreatment standards developed for the waste generators' industrial category. Such discharges shall be made in strict conformance with the regulations and at the locations established by the General Manager, and discharge of hauled waste in any other manner than herein provided for shall constitute a violation of this Ordinance. Prior to the discharge of any hauled waste into the POTW, the following conditions shall be met:

Any person discharging hauled waste into the POTW shall have a valid waste hauler permit issued by the Napa Sanitation District, as well as required permits issued by the State of California and the County of Napa Environmental Management.

Waste from other counties other than listed in the waste hauler permit is prohibited unless written permission is first obtained from the District.

Any registered waste hauler lending their registration certificate to any person or persons or taking out permits in their names at the office of the District Secretary for the use of any person or persons not regularly registered or who does not comply in every way with the requirements of this Ordinance shall have their agreement suspended and revoked, not to be reissued.

Waste haulers shall keep accurate records, enter the required waste hauler information accurately, and shall file with the District, a report of discharges into the POTW when requested. Falsification of the entries or report shall constitute a violation of this Ordinance and is subject to penalties including fines and permit revocation.

Hauled waste shall not contain substances prohibited herein for discharge into the POTW.

##### **B) Holding Tank Waste**

No person shall discharge any holding tank wastes or wastes from barrels, storage tanks, or any other such containers into a public sewer unless that person has obtained a permit from the District to do so. This permit will state the specific location of discharge, the times of day discharge can occur, the volume of the discharge and the wastewater constituents and characteristics. If a permit is granted for discharge of such waste into a District facility, the User shall pay the applicable charges and fees and shall meet such other conditions as required by the District.

No person shall discharge or cause or allow or permit to be discharged directly or indirectly to a public sewer any wastes originating from a recreational vehicle, boat, camper, mobile home, trailer, portable toilet, chemical toilet, or any temporary or mobile sanitation facility except pursuant to approval or permit issued by the District at a facility designed and



operated for this type of discharge. Discharge directly to the sanitary sewer via a clean out on the person's property for equipment owned by that person is allowed.

**C) RCRA Wastes**

No User may discharge any hazardous waste transported to the POTW by any means including truck, rail, or dedicated pipe (when the waste is not mixed with domestic sewage) that can subject the POTW to any Resource Conservation and Recovery Act (RCRA) Hazardous Waste Requirements.

**4.04.140 National Pretreatment Standards: Categorical Standards**

**A) Federal Categorical Pretreatment Standards**

Standards and requirements under 40CFR are hereby incorporated by reference including future amendments thereto. The District will monitor Federal regulations for EPA promulgation of new or revised regulations.

**B) Category Determination Request**

An IU or the District may request, in writing, from the State a determination as to which category is most appropriate for the IU. (40CFR 403.6 (a))

**1) Application Deadline**

All existing Industrial Users must submit a request to the General Manager for subcategory determination within 60 days after the effective date of a Pretreatment Standard for a subcategory under which an IU may be included or when an IU adds or changes a process or operation. A "new source" must request this certification prior to commencing discharge. (40CFR 403.6)

**2) Contents of Application**

Each request must include a description of which subcategories might be applicable, evidence and reasons why a particular subcategory may or may not be applicable, and a signed statement of truthfulness as cited in 40CFR 403.6.

All applications, reports, or information submitted to the District must contain the following certification statement and be signed as required to include company name, facility address, date, and authorized representative:

**STATEMENT OF TRUTHFULNESS**

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information

submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

### **3) Deficient Requests**

The Water Management Division Director or Director will only act on written requests for determinations that contain all of the information required. Persons who have made incomplete submissions will be notified by the Water Management Division Director or Director that their requests are deficient and, unless the time period is extended, will be given 30 days to correct the deficiency. If the deficiency is not corrected within 30 days or within an extended period allowed by the Water Management Division Director or Director, the request for a determination shall be denied. (40CFR 403.6)

### **4) Final Decision**

- a) When the Water Management Division Director or Director receives a submittal he or she will, after determining that it contains all of the information required within section 709.02.2 of this ordinance, consider the submission, any additional evidence that may have been requested, and any other available information relevant to the request. The Water Management Division Director or Director will then make a written determination of the applicable subcategory and state the reasons for the determination.
- b) Where the request is submitted to the Director, the Director shall forward the determination described in this paragraph to the Water Management Division Director who may make a final determination. The Water Management Division Director may waive receipt of these determinations. If the Water Management Division Director does not modify the Director's decision within 60 days after receipt thereof, or if the Water Management Division Director waives receipt of the determination, the Director's decision is final.
- c) Where the request is submitted by the Industrial User or POTW to the Water Management Division Director or where the Water Management Division Director elects to modify the Director's decision, the Water Management Division Director's decision will be final.
- d) The Water Management Division Director or Director, as appropriate, shall send a copy of the determination to the affected Industrial User and the POTW. Where the final determination is made by the Water Management Division Director, he or she shall send a copy of the determination to the Director. (40CFR 403.6)

### **5) Requests for Hearing and/or Legal Decision**

The requester IU may submit within 30 days of receipt of notice of the final determination, a petition to consider or contest the decision to the Regional Administrator. (40CFR 403.6)

**C) Deadline for Compliance with Categorical Standards**

Compliance by existing sources with categorical Pretreatment Standards shall be within 3 years of the date of the Standard is effective unless a shorter compliance time is specified in the appropriate subpart of 40 CFR, Chapter I, Subpart N. Existing sources, which become IUs subsequent to promulgation of an applicable Categorical Pretreatment Standard, shall be considered existing IUs except where such sources meet the definition of a "new source." New sources shall install and have in operating condition, and shall "start up" all pollution control equipment required to meet applicable Pretreatment Standards before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), new sources must meet all applicable Pretreatment Standards. (40CFR 403.6)

**D) Concentration and Mass Limits**

Pollutant discharge limits in categorical Pretreatment Standards will be expressed either as concentration or mass limits as approved by the District. Wherever possible, where concentration limits are specified in standards, equivalent mass limits will be provided so that local, State or Federal authorities responsible for enforcement may use either concentration or mass limits. Limits in categorical Pretreatment Standards shall apply to the effluent of the process regulated by the Standard, or as otherwise specified by the standard. (40CFR 403.6)

**E) Dilution Prohibited as a Substitute for Treatment**

Except where expressly authorized to do so by an applicable categorical Pretreatment Standard, no Industrial User shall ever increase the use of process water or, in any other way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a categorical Pretreatment Standard or requirement. The Control Authority may impose mass limitations on Industrial Users or in other cases where the imposition of mass limitations is appropriate. (40CFR 403.6)

**F) Combined Wastestream Formula**

Where process effluent is mixed prior to treatment with wastewaters other than those generated by the regulated process, fixed alternative discharge limits may be derived by the Control Authority or the Industrial User with the written concurrence of the Control Authority. These alternative limits shall be applied to the mixed effluent. When deriving alternative categorical limits, the Control Authority or Industrial User shall calculate both an alternative daily maximum value using the daily maximum value(s) specified in the appropriate categorical Pretreatment Standard(s) and an alternative consecutive sampling day average value using the monthly average value(s) specified in the appropriate categorical Pretreatment Standard(s).

The Industrial User shall comply with the alternative daily maximum and monthly average limits fixed by the Control Authority until the Control Authority modifies the limits or approves an Industrial User modification request. Modification is authorized whenever there is a material or significant change in the values used in the calculation to fix alternative limits for the regulated pollutant.

An Industrial User must immediately report any such material or significant change to the Control Authority. Where appropriate, new alternative categorical limits shall be calculated within 30 days. The calculations for the alternative concentration limit and/or the alternative mass limit, detection limits, and self-monitoring requirements must comply with 40CFR 403.6.

<b>Combined Wastestream Formula Determination (Alternate Concentration Limit)</b>	
$C_T = \left( \frac{\sum_{i=1}^N C_i F_i}{\sum_{i=1}^N F_i} \right) \left[ \frac{F_T - F_D}{F_T} \right]$	
$C_T$ , mg/L	Alternate Final Concentration mg/L
N	Total Number of Regulated Wastestreams
i	Regulated Wastestream
$F_T$	Average Daily Flow, GPD (Combined-includes $F_i$ & $F_D$ )
$C_i$	CIU Pretreatment Standard conc. Limit in regulated wastestream i
$F_i$	Average Daily Flow (Regulated Wastestream)
$F_D$	Average Daily Flow (Boiler Blowdown, cooling tower, etc.)

**4.04.150 Removal Credits**

Removal credits will not be granted with exception for Categorical Industrial Users as approved by the District.

**4.04.160 Implementing Provisions and Procedures**

**A) Notification**

All IUs subject to the POTW pretreatment program are required to file a written request for coverage with the District as indicated under 40CRF 403.8(f)(2).

**B) Current Requirements**

All IUs are required to keep apprised of currently applicable pretreatment standards and requirements.

**C) Self-Monitoring Reports**

The District will receive and analyze self-monitoring reports and other notices submitted by IUs in accordance with the self-monitoring requirements in 40CFR 403. The District may

inspect and sample the effluent from each SIU at least once per year. The District may determine if each SIU needs a plan to control slug discharges at least once every two years.

#### **D) Accidental Discharges**

- 1) Each discharger shall provide protection from accidental discharge of prohibited materials and/or other wastes regulated by this Ordinance. Where necessary, or as directed by the General Manager, retention basins, dikes, storage tanks or other facilities designed to eliminate, neutralize, offset or otherwise negate the effects of prohibited materials or wastes discharged in violation of this Ordinance shall be installed.

Dischargers shall notify the District immediately when accidental discharges, including slug loads of wastes in violation of this Ordinance occur so that counter measures may be taken by the District to minimize damage to the sewer system, treatment plant, treatment process and the receiving waters. Such notification will not relieve dischargers of liability for any expense, loss or damage to the sewer system, treatment plant, or treatment process, or for any fines or judgments imposed on the District on account thereof under Section 13000 et. seq. of the California Water Code or for violation of Section 5650 of the California Fish and Game Code.

- 2) In the event of accidental discharge in violation of this Ordinance, discharger shall furnish the District, within 5 days of the date of occurrence, a detailed written statement describing the causes of the accidental discharge and the measures being taken for cleanup and to prevent future occurrence.
- 3) Sewer connections within the discharger's plumbing or drainage system shall be appropriately labeled to warn operating personnel against discharge of any substance in violation of this Ordinance.

#### **E) Slug Loading Control Plan**

An Industrial User must develop and implement a slug loading control plan whenever the Control Authority decides that a slug control plan is needed or within one year of being designated an SIU. The slug loading control plan shall contain, at a minimum, the following elements designed to prevent slug loading:

- 1) Description of discharge practices, including non-routine batch discharges.
- 2) The description shall include a list of chemicals that are handled/stored, MSDS reports, volume of each chemical, and capacity of each tank.
- 3) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under 40CFR 403.5(b), with procedures for follow-up written notification within five (5) days.
- 4) Procedures to prevent adverse impact from slug loads, including inspection and maintenance of potential spill sources including storage areas, loading and unloading

operations, control of plant site runoff, worker training, building of containment structures or equipment measures for containing toxic organic pollutants (including solvents) with a list of measures, equipment, and materials available for spill response activities along with their location. A listing of commercial (or other) suppliers of spill response equipment and materials (indicating the types of equipment available) and their telephone numbers.

- 5) A list of the facility personnel (by name and title) that have an identified role for the implementation of a slug load response plan, indicating the responsibilities and authorities of each.
- 6) The plan containing, all of the above prescribed elements, must be submitted to Napa Sanitation District for approval within two months from the date requested to develop and implement a slug loading control plan. Full implementation of an approved slug loading control plan is not to exceed four months.
- 7) The IU "permittee" shall notify the Napa Sanitation District of any proposed changes to the plan by submitting a proposed revised plan to the NSD and informing the NSD in advance of the date upon which the proposed revised plan will take effect (pending approval by NSD).

**F) Investigate Noncompliance**

Investigate instances of noncompliance with Pretreatment Standards and Requirements including but not limited to reports, notices, sample taking and analysis, inspections and surveillance activities, etc.

**G) Public Participation. (Significant Noncompliance)**

The procedures in this section and 40CFR Part 25 in the enforcement of National Pretreatment Standards include provision. An IU is in significant noncompliance if its violation meets one or more of the criteria set forth as defined by Significant Noncompliance (SNC).

**4.04.170 Implementing Provisions**

**A) Industrial Parks Notification**

All owners of industrial parks are required to notify the District, at least annually, of all changes in tenancy and any known changes in industrial and commercial operations among their tenants.

**B) Notice of Violation**

Whenever the General Manager finds that discharge of any waste is, or threatens to become, a public nuisance or a violation of established requirements, including but not limited to this Ordinance, other ordinances and resolutions, he may issue an order specifying such nuisance, violations, or threatened violations, and ordering compliance

within the time schedule specified therein. Noncompliance with such order shall constitute a violation of this Ordinance.

**C) Serious and Immediate Hazards**

Notwithstanding the provisions of any other section of this Ordinance, whenever in the judgment of the General Manager, it appears that any waste discharge is causing any condition constituting a hazard to the life, health or safety of any person, or to the sewage system, the General Manager is empowered to terminate service immediately.

**D) Sampling Facilities**

The discharger of any industrial waste shall, at the facility's expense, install a sampling manhole and/or other metering and monitoring equipment to facilitate observation, sampling, and measurement of the discharger's waste as required by the District. Such sampling facility shall be acceptable to the General Manager for the purposes required, shall be safely located, accessible at all times and constructed in a manner and with materials in conformance with District regulations. These facilities shall be maintained in good condition at all times at the discharger's expense. Sampling facilities shall be installed prior to commencement of discharge into the sanitary sewer system or within ninety (90) days after notice by the General Manager or District designee. Tampering with samplers and flow metering devices is strictly forbidden. Handling of these devices must be done as approved and in accordance with District regulations.

Notwithstanding the provisions above, the General Manager has the discretion to waive, in a waste discharge permit, the User's requirement to install sampling or other metering and monitoring equipment, where he or she determines that it is not feasible to do so and that the nature of the wastewater discharge is such that the lack of sampling and monitoring will not adversely affect the District's objectives set forth in Section 4.04.010. In such event, the waste discharge permit shall establish a fixed strength factor for the purpose of calculating sewer service charges.

**E) Maintenance of Pretreatment Facilities**

Where pretreatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense and to the satisfaction of the District.

**F) Interceptors/Traps Required**

Any type of business or establishment where fats, grease, oils or other objectionable materials including sand, oil, sludge, muck, etc. may be discharged into the POTW shall have a grease and/or solids-removal device of a size and design approved by the District in accordance with the current Uniform Plumbing Code.

**G) Maintenance of Interceptors/Traps**

All grease, oil and sand interceptors and traps shall be maintained by the owner, at the owner's expense, to meet limit requirements.

## **H) Measurements and Tests**

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this Ordinance including sampling techniques, to be submitted as part of a wastewater discharge permit application or report, shall be determined in accordance with the test procedures in 40 CFR Part 136 and amendments thereto whenever applicable. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the District or other parties approved by EPA. Analysis shall be determined from samples collected at a predetermined manhole or other sampling location (i.e., control manhole, end of process, end of pipe, or other location) identified and approved by the General Manager. In the event that no special sampling location or manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the side sewer is connected.

## **I) Representative Sampling**

All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge. If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the General Manager using the procedures prescribed in this Ordinance, the results of this monitoring shall be included in the report. (40 CFR 403.12)

## **J) Special Agreements**

No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the District and any industrial user concern whereby an industrial waste of unusual strength or character may be accepted by the District for treatment, subject to payment therefore by the industrial concern and subject to such terms and conditions as might be required by District. This agreement or waiver does not preclude any National Categorical Pretreatment Standard or Requirement, or local limits.

## **K) Changes in Pretreatment and Waste Discharge Requirements**

The provisions contained herein relating to pretreatment and to prohibited waste discharges and as to limitations and restrictions on waste discharges are subject to regulations by State and Federal authorities and are subject to the terms and conditions of the National Pollution Discharge Elimination System Permit heretofore issued to the District. Should the State and Federal regulations be modified or should the National Pollution Discharge Elimination System Permit be amended, the requirements of this Ordinance shall be suspended to the extent that such standards are higher than those contained herein, and such higher standards shall be immediately applicable upon the effective date of such State



or Federal regulations or of the amendment to the National Pollution Discharge Elimination System Permit.

Pursuant to Section 307(b) Clean Water Act [33 U.S.C. 1251 et seq.], as amended, all pretreatment for incompatible pollutants discharged at each industrial plant site to the public sewer shall be consistent with Federal Categorical Pretreatment Standards.

**L) Notice to Employees**

In order for employees of Users to be informed of District requirements, Users shall post in a conspicuous place and make available to their employees, copies of these regulations together with such other wastewater information and notices which may be furnished by the District from time to time directed toward more effective water pollution prevention.

**4.04.180 Enforcement Provisions**

**A) Administrative Enforcement Remedies.**

**1) Notification of Violation**

Whenever the General Manager finds that any Industrial User has violated or is violating this Ordinance, or a wastewater permit or order issued hereunder, the General Manager or his agent may serve upon said User written notice of the violation. Within 10 days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the General Manager. Submission of this plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation.

**2) Consent Orders**

The General Manager is hereby empowered to enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the Industrial User responsible for the noncompliance. Such orders will include specific action to be taken by the Industrial User to correct the noncompliance within a time period also specified by the order. Consent Orders shall have the same force and effect as administrative orders issued pursuant to the paragraph below entitled "Compliance Order".

**3) Show Cause Hearing**

The General Manager may order any Industrial User, which causes or contributes to violation of this Ordinance or wastewater permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the User show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt

requested) at least 10 days prior to the hearing. Such notice may be served on any principal executive, general partner or corporate office. Whether or not a duly notified Industrial User appears as noticed, immediate enforcement action may be pursued.

**4) Compliance Order**

When the General Manager finds that an Industrial User has violated or continues to violate the ordinance or a permit or order issued thereunder, he may issue an order to the Industrial User responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

**5) Cease and Desist Orders**

When the General Manager finds that an Industrial User has violated or continues to violate this Ordinance or any permit or order issued hereunder, the General Manager may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

- a) Comply forthwith
- b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

**6) Administrative Fines**

Pursuant to the authority of California Government Code Sections 54739 to 54740.6, the District or District staff may issue administrative complaints, conduct administrative hearings and/or impose civil penalties in accordance with the procedures set forth in these sections for violation of the District's requirements relating to pretreatment of industrial waste or the prevention of the entry of industrial waste into the POTW.

These penalties shall be as follows:

- a) In an amount which shall not exceed two thousand dollars (\$2,000) for each day for failing or refusing to furnish technical or monitoring reports.
- b) In an amount, not to exceed three thousand dollars (\$3,000) for each day for failing or refusing to timely comply with any compliance schedule established by the District.

- c) In an amount not to exceed five thousand dollars (\$5,000) per violation for each day for discharges in violation of any waste discharge limitation, permit condition, or requirement issued, reissued, or adopted by the District.
- d) In an amount not to exceed ten dollars (\$10) per gallon for discharges in violation of any suspension, cease and desist order or other orders, or prohibition issued, reissued, or adopted by the District.
- e) Unless appealed, orders setting administrative civil penalties shall become effective and final upon issuance thereof, and payment shall be made within 30 days.
- f) Administrative Fines shall not absolve or protect the violator from additional penalties by the District or other agencies.
- g) As to court actions authorized by the above referenced sections, District Counsel, or other special counsel designated by the District Board, shall institute appropriate actions to affect statutorily authorized remedies, upon order of the District Board.

**7) Emergency Suspensions**

- a) The General Manager may suspend the wastewater treatment service and/or wastewater permit of an Industrial User whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment.
- b) Any User notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the General Manager shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The General Manager shall allow the User to recommence its discharge when the endangerment has passed, unless the termination proceedings, as set forth in the paragraph below entitled "Term of Permit", are initiated against the User.
- c) An Industrial User which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the General Manager prior to the date of the hearing described in paragraph 2 above. (40CFR 403.8)

**8) Monitoring Facilities**

Any person who intentionally or negligently tampers with, falsifies, or knowingly renders inaccurate, any monitoring device shall be punished by a fine of not more

than ten thousand dollars (\$10,000) or imprisoned in a County jail for more than six (6) months or both.

**9) Termination of Permit**

Significant Industrial Users proposing to discharge into the POTW must first obtain a wastewater discharge permit from the Control Authority. Any User who violates the following conditions of this Ordinance or a wastewater discharge permit or order, or any applicable State and Federal law, is subject to permit termination:

- a) Violation of permit conditions
- b) Failure to accurately report the wastewater constituents and characteristics of its discharge, including BMR, within the required time frame.
- c) Failure to report significant changes in operations or wastewater constituents and characteristics.
- d) Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling.
- e) Noncompliant Industrial Users will be notified of the proposed termination of their wastewater permit and be offered an opportunity to show cause (as set forth in the above paragraph of this Ordinance entitled "Show Cause Hearing") why the proposed action should not be taken.

**10) Disconnection**

As an alternative method of enforcing the provisions of this or any other ordinance, rule or regulation of the District, the General Manager shall have the power to disconnect the user or subdivision sewer system from the sewer mains of the District. Upon disconnection the General 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 General Manager shall refund any part of deposit remaining after payment of all costs of disconnection and reconnection.

**B) Judicial Remedies**

If any person discharges sewage, industrial wastes, or other wastes into the wastewater disposal system contrary to the provisions of this Ordinance or any order or permit issued hereunder, the General Manager, through the District's attorney, may commence an action for appropriate legal and/or equitable relief in the Courts of Napa County.

**1) Injunctive Relief**

Whenever an Industrial User has violated or continues to violate the provisions of this Ordinance or permit or order issued hereunder, the General Manager through

counsel may petition the Court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the Industrial User. The General Manager shall have such remedies to collect these fees as it has to collect other sewer service charges.

## 2) **Civil Penalties**

- a) Any Industrial User who has violated or continues to violate this Ordinance or any order or permit issued hereunder, shall be liable to the General Manager for a civil penalty of not more than **\$25,000, but not less than \$1,000**, plus actual damages incurred by the POTW per violation per day for as long as the violation continues. In addition to the above described penalty and damages, the General Manager may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses.
- b) The General Manager shall petition the Court to impose, assess, and recover such sums. In determining amount of liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the Industrial User's violation, corrective actions by the Industrial User, the compliance history of the User, and any other factor as justice requires.

## 3) **Criminal Prosecution**

### a) **Violations – Generally**

- 1) Any Industrial User who willfully or negligently violates any provision of this Ordinance or any orders or permits issued hereunder shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed \$1,000.00 per violation per day or imprisonment for not more than one year or both.
- 2) In the event of a second conviction, the User shall be punished by a fine not to exceed \$3,000.00 per violation per day or imprisonment for not more than three years or both.

### b) **Falsifying Information**

- 1) Any Industrial User who knowingly makes any false statements, representations, or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Ordinance, or wastewater permit, who falsifies, tampers with, or knowingly renders inaccurate any monitoring devise or method required under this Ordinance shall, upon conviction, be punished by a fine of not more than \$1,000.00 per violation per day or imprisonment for not more than one year or both.

- 2) In the event of a second conviction, the User shall be punished by a fine not to exceed \$3,000.00 per violation per day or imprisonment for not more than three years or both.

### **C) Supplemental Enforcement Remedies**

#### **1) Annual Publication of Significant Violations**

The General Manager shall publish, at least annually in the largest daily newspaper circulated in the service area, a description of those Industrial Users found to be in significant noncompliance, as defined in this Ordinance, with any provisions of this Ordinance or any permit or order issued hereunder during the period since the previous publication.

#### **2) Performance Bonds**

The General Manager may decline to reissue a permit to any Industrial User which has failed to comply with the provisions of this Ordinance or any order or previous permit issued hereunder unless such User first files with it a satisfactory bond, payable to the POTW, in a sum not to exceed a value determined by the General Manager to be necessary to achieve consistent compliance.

#### **3) Liability Insurance**

The General Manager may decline to reissue a permit to any Industrial User which has failed to comply with the provisions of this Ordinance or any order or previous permit issued hereunder, unless the Industrial User first submits proof that it has obtained financial assurances sufficient to restore or repair POTW damage caused by its discharge.

#### **4) Water Supply Severance**

Whenever an Industrial User has violated or continues to violate the provisions of this Ordinance or an order or permit issued hereunder, water service to the Industrial User may be severed by the water purveyor upon request by the District and service

will only recommence, at the User's expense, after it has satisfactorily demonstrated its ability to comply.

#### **5) Public Nuisances**

Continued habitation of any building or continued operation of any industrial facility in violation of the provisions of this or any other ordinance, rule or regulation of the District.

#### **6) Contractor Listing**

- a) Industrial Users which have not achieved consistent compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the Napa Sanitation District.
- b) Existing contracts for the sale of goods or services to the Napa Sanitation District held by an Industrial User found to be in significant violation with pretreatment standards may be terminated at the discretion of the District.

**D) Affirmative Defense**

**1) Treatment Upsets**

- a) Any Industrial User which experiences an upset in operations that places it in a temporary state of noncompliance, which is not the result of operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation, shall inform the General Manager thereof immediately upon becoming aware of the upset. Where such information is given orally, the User thereof shall submit a written incident report to the District within five days. The report shall contain:
  - 1) A description of the upset, its cause(s), and impact on the discharger's compliance status,
  - 2) The duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance is continuing, the steps taken or to be taken and the time by which compliance is reasonably expected to be restored, and
  - 3) All steps taken or planned to reduce, eliminate, and prevent recurrence of such an upset.
- b) An Industrial User which complies with the notification provisions of this Section in a timely manner may have an affirmative defense to any enforcement action brought by the General Manager for any noncompliance with this Ordinance, or an order or permit issued hereunder by the User, which arises out of violations attributable to and alleged to have occurred during the period of the documented and verified upset.

**2) Treatment Bypasses**

- a) A bypass of the treatment system is prohibited unless all of the following conditions are met:
  - 1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - 2) There was no feasible alternative to the bypass, including the User of auxiliary treatment or retention of the wastewater; and

- 3) The Industrial User properly notified the General Manager as described in paragraph b below.
- b) Industrial Users must provide immediate notice to the General Manager upon discovery of any unanticipated bypass.
- c) If necessary, the General Manager may require the Industrial User to submit a written report explaining the cause(s), nature, and duration of the bypass, and the steps being taken to prevent its recurrence.
- d) An Industrial User may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to ensure efficient operation of the treatment system. Industrial Users anticipating a bypass must submit notice to the General Manager at least 10 days in advance. The General Manager may only approve the anticipated bypass if the circumstances satisfy those set forth in 4.04.180(D)(2)(a).

**3) Affirmative Defenses**

A User shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions established in 40CFR 403 where the User can demonstrate that:

- a) It did not know or have reason to know that its Discharge, alone or in conjunction with a discharge or discharges from other sources, would cause Pass Through or Interference; and
- b) A local limit designed to prevent Pass Through and/or Interference, as the case may be, was developed in accordance with paragraph (c) of this section for each pollutant in the User's Discharge that caused Pass Through or Interference, and the User was in compliance with each such local limit directly prior to and during the Pass Through or Interference; or

If a local limit designed to prevent Pass Through and/or Interference, as the case may be, has not been developed by the POTW for the pollutant(s) that caused the Pass Through or Interference, the User's Discharge directly prior to and during the Pass Through or Interference did not change substantially in nature or constituents from the User's prior discharge activity when the POTW was regularly in compliance with the POTW's NPDES permit requirements and, in the case of Interference, applicable requirements for sewage sludge use or disposal.

**E) Liability for Violation**

Any person violating any of the provisions of the 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.



**F) Enforcement Response Plan**

All Users are subject to all the provisions of the Napa Sanitation District Enforcement Response Plan. (40 CFR 403.8)

**G) 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 its ordinances, rules and regulations, and not as a penalty.

**4.04.190 Reporting Requirements**

**A) Baseline Monitoring Report**

A BMR must be submitted by existing and new Industrial Users subject to categorical standards and currently discharging or scheduled to discharge to the sewer system. Existing IUs must submit the required information in this section within 180 days after the effective date of a categorical Pretreatment Standard or 180 days after the final administration decision made upon a category determination submission, whichever is later. New source IUs must submit the required information at least 90 days prior to commencement of discharge.

The General Manager may require additional information as a part of the report if, in his/her opinion, insufficient information has been provided. (40CFR 403) The report shall contain the results of sampling and analysis indicating the nature and concentration of pollutants in the effluent which are limited by such categorical Pretreatment Standards.

**1) Identifying Information**

The User shall submit the name and address of the facility, including the name of the operator and owners.

**2) Permits**

The User shall submit a list of any environmental control permits held by or for the facility.

**3) Description of Operation**

The User shall submit a brief description of the nature of the process, average rate of production (flow, volume, substances and concentrations in the waste discharge). Also submit the Standard Industrial Classification (SIC) of the operation(s) carried out by such Industrial User. This description should include a schematic process diagram, indicating points of discharge to the POTW from the regulated processes.

#### 4) **Flow Measurement**

User shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from the regulated process streams and other streams as necessary to allow use of the combined wastestream formula.

#### 5) **Measurement of Pollutants (Sample Collection Procedures)**

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period. The following section relates to all SIU monitoring:

- a) Except as indicated in Section B and C below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by General Manager. Where time-proportional composite sampling or grab sampling is authorized by POTW, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the General Manager, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.
- b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

For sampling required in support of baseline monitoring and 90-day compliance reports required 40 CFR 403, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the General Manager may authorize a lower minimum. The Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

The following paragraphs relate to Categorical Industrial User monitoring reports only:

- 1) The IU shall identify the Pretreatment Standards applicable to each regulated process.
- 2) The IU shall submit the results of sampling and analysis from each regulated process to the Control Authority. The daily maximum and average

concentration shall be reported. The sample shall be representative of daily operations.

- 3) The proper and approved method of sampling (grab, flow-proportional composite or time-proportional composite) will be utilized to obtain representative results.
- 4) A minimum of one representative sample will be taken to comply with the requirements of this section.
- 5) Samples should be taken immediately downstream from pretreatment facilities, if such exist, or immediately downstream from the regulated process if no pretreatment exists. All flows and concentrations must be measured to allow use of combined wastestream formula.
- 6) Sampling and analysis shall be performed in accordance with the techniques prescribed in 40CFR part 136 and amendments thereto. Where Part 136 procedures do not include sampling or analytical techniques or where Part 136 methods are deemed (by EPA Administrator) to be inappropriate, sampling and analysis shall occur according to procedures approved by EPA.
- 7) The BMR shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
- 8) A BMR containing historical data may only be used upon approval by the Control Authority. (40CFR 403)

#### **6) Certification**

A statement reviewed by an authorized representative of the Industrial User and certified to by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O & M) and/or additional pretreatment is required for the Industrial User to meet the Pretreatment Standards and Requirements.

#### **7) Compliance Schedule**

If additional pretreatment and/or O & M will be required to meet the Pretreatment standards, the shortest schedule by which the Industrial User will provide such additional pretreatment and/or O & M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

### **B) Report on Progress in Meeting Compliance Schedules**

A schedule of events to achieve compliance is required. It shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the IU

to meet the applicable pretreatment standards (i.e., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc. No increments shall exceed 9 months.

Not later than 14 days following each date in the schedule and the final date for compliance, the Industrial User shall submit a progress report to the NSD including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the Industrial User to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the NSD. (40CFR 403)

**C) Report on Final Compliance (90 Day Report)**

Within 90 days following the date for final compliance with applicable categorical Pretreatment Standards or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any Industrial User subject to Pretreatment Standards and requirements shall submit to the NSD a report, with the same requirements as for the BMR, indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by Pretreatment Standards and Requirements and the average and maximum daily flow for these process units in the Industrial User which are limited by such Pretreatment Standards and Requirements. The report shall state whether the applicable Pretreatment Standards or Requirements are being met on a consistent basis and, if not, what additional O & M and/or pretreatment is necessary to bring the Industrial User into compliance with the applicable Pretreatment Standards or Requirements. This statement must be reviewed by an authorized representative of the Industrial User and certified by a qualified professional. (40CFR 403)

**D) Periodic Reports on Continued Compliance**

All Industrial Users shall submit to the NSD no later than July 15 and January 15 for the previous complete six month period, unless required more frequently in the Pretreatment Standard or by the NSD or the RWQCB, a report indicating the nature and concentration of pollutants in the effluent which are limited by such categorical Pretreatment Standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported, except that the NSD may require more detailed reporting of flows. At the discretion of the NSD and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the NSD may agree to alter the date by which the above reports are to be submitted. (40CFR 403)

The Control Authority may authorize an Industrial User subject to categorical Pretreatment Standards to forgo sampling of a pollutant required for periodic reports on continued compliance if the Industrial User demonstrates through sampling and a technical evaluation of its facility operations, that a given pollutant is neither present nor expected to be present in the Discharge, or is only present at background levels from intake water without any increase in the pollutant due to the activities of the Industrial

User. At a minimum, the Industrial User must sample for the waived pollutant(s) at least once during the term of the Permit.

A waiver may be granted by the Control Authority to the Industrial User in the User's Permit. The waiver is valid only for the duration of the Permit, and in no case longer than five (5) years. In order to continue the waiver for the period of the next Permit, the Industrial User will need to reapply for the waiver, including the submission of appropriate monitoring data.

The request for a monitoring waiver must comply with the signatory requirements in Section 714.10. Upon approval of the monitoring waiver, the Industrial User must certify on each report with the statement that there has been no increase in the pollutant in its wastestream due to activities of the Industrial User.

In the event a waived pollutant is found to be present or is expected to be present because of changes that occur in the User's operations, the User must immediately comply with the monitoring requirements of this Section, or other more frequent monitoring requirements imposed by the District, and notify the District.

#### **E) Notice of Slug Loading**

The Industrial User shall notify the POTW immediately of any discharges that could cause problems to the POTW, including any slug loadings, as defined by 40 CFR 403.5.

#### **F) Monitoring and Analysis Reports**

Whenever sampling performed by an IU indicates a violation, the User shall notify the Control Authority within 24 hours of becoming aware of the violation. Repeat sampling and analysis by the User shall be performed and results submitted to the Control Authority within 30 days of becoming aware of the violation. (40CFR 403.12)

The Control Authority determines the frequency of monitoring necessary to assess and assure compliance by IUs with applicable Pretreatment Standards and Requirements.

Sampling for all SIUs for periodic reports must be performed during the period covered by the report.

If a Significant Industrial User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by General Manager, using the procedures prescribed, the results of this monitoring shall be included in the report. (40 CFR 403.12)

Resampling by the Industrial User is not required if the POTW performs sampling at the User's facility at least once a month, or if the POTW performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the POTW receives the results of this sampling, or if the POTW has performed the sampling and analysis in lieu of the Industrial User.

### **G) Reports Required by Non-categorical Industries**

All significant non-categorical Industrial Users are required to sample their effluent at least once every six months (on dates specified by the Control Authority) and submit the results to the Control Authority. The reports must be based on sampling and analysis performed in the period covered by the report and in accordance with 40 CFR Part 136 and amendments thereto or other approved sampling or analytical techniques as determined by the Administrator. The report shall contain a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority. All or parts of this report will not be required if the POTW elects to perform the sampling and analysis. (40 CFR 403.12)

### **H) Annual POTW Reports**

An annual Pretreatment Report will be submitted to the Approval Authority summarizing the activities and effectiveness of the District's pretreatment program. The goal of the local pretreatment program is to regulate discharges from Industrial Users (IUs) into the sewers.

The annual Pretreatment Report will include, at a minimum, the following:

An updated list of IUs; a summary of the status of IU compliance over the reporting period; a summary of compliance and enforcement activities (including inspections and samplings) conducted by the POTW during the reporting period; and any other relevant information requested by the Approval Authority. (40CFR 403.12)

### **I) Notification of Changed Discharge**

All IUs are required to notify the Control Authority in advance of any waste discharge changes, including hazardous wastes. (40CFR 403.12)

### **J) Signatory Requirements for Industrial User Reports**

All required reports shall include the certification statement as set forth in 40 CFR 403.6(a)(2)(ii) and shall be signed by an authorized representative of the Industrial User. An authorized representative may be:

- 1) A responsible corporate officer (president, vice-president, or secretary-treasurer) in charge of a principal business function, etc.
- 2) A general partner or proprietor (if the IU submitting the reports is a partnership or sole proprietorship).
- 3) A duly authorized representative of the responsible party as identified in 40 CFR 403.12(L), if:
  - a) the authorization is made in writing;

- b) the authorization specifies either an individual or a position having responsibility for the overall operation of the facility or environmental matters for the company; and
  - c) the written authorization is submitted to the Control Authority;
- 4) A reauthorized individual that satisfies the requirements stated in 40CFR 403.12.

**K) Provisions Governing Fraud and False Statements**

The reports required in 40CFR 403.12 are subject to the provisions of 18 U.S.C. 1001 relating to fraud and false statements and the provisions of section 309(c)(2) of the Act governing false statements, representations or certifications in reports required under the Act. (40CFR 403.12)

**L) Recordkeeping Requirements**

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices established by the District. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. 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 litigation concerning the User or District, or where the User has been specifically notified of a longer retention period by General Manager.

**M) Hazardous Waste Notification**

All IUs are required to notify the EPA, the State and the Control Authority within 180 days of the DSS regulations effective date (or within 180 days for sources commencing discharge after the effective date of the regulations) of discharges of listed and characteristic hazardous wastes, the constituents of these wastes, and anticipated discharges of such wastes over a calendar month and over one year. The regulations do not apply to discharges of less than 15 kilograms per month of hazardous wastes unless the wastes are acute hazardous wastes. Additionally, notification is not necessary if pollutants are already reported in periodic self-monitoring reports. (40CFR 403.12)

**4.04.200 Variances**

A request for variances from categorical pretreatment standards for fundamentally different factors must be made in accordance with the criteria set forth in 40CFR 403.13.

#### **4.04.210 Confidentiality**

##### **A) EPA Authorities**

In accordance with 40 CFR Part 2, any information submitted to Environmental Protection Agency, the State of California or to the Napa Sanitation District, may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions, or, in the case of other submissions, by stamping the words "Confidential Business Information" on each page containing such information. If no claim is made at the time of submission, EPA, the State of California or the Napa Sanitation District may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in 40CFR Part 2 (Public Information). (40CFR 403.14)

##### **B) Effluent Data**

Information and data provided to the Control Authority or District which is effluent data shall be available to the public without restriction. (40CFR 403.14)

##### **C) State or POTW**

All other information which is submitted to the State or POTW shall be available to the public at least to the extent provided by 40CFR 2. The District shall not agree to maintain any information submitted to the State or the POTW as confidential, and shall not be liable to any permit applicant or User for release of such information. (40CFR 403.14)

#### **4.04.220 Net/Gross Calculations**

##### **A) Application**

Categorical Pretreatment Standards may be adjusted to reflect the presence of pollutants in the Industrial User's intake water in accordance with this section. Any Industrial User wishing to obtain credit for intake pollutants must make application to the Control Authority. Upon request of the Industrial User, the applicable Standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of 4.04.220(B) are met.

##### **B) Criteria**

- 1) Either:
  - a) The applicable categorical Pretreatment Standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or
  - b) The Industrial User must demonstrate that the control system it proposes or uses to meet applicable categorical Pretreatment Standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.



- 2) Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease should not be granted unless the Industrial User demonstrates that the constituents of the generic measure in the User's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.
- 3) Credit shall be granted only to the extent necessary to meet the applicable categorical Pretreatment Standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with Standard(s) adjusted under this section.
- 4) Credit shall be granted only if the User demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The Control Authority may waive this requirement if it finds that no environmental degradation will result. (40CFR 403.15)

## Title 5 – Rates and Charges

### 5.01 Sewer Service Charges

#### 5.01.010 Rates

Sewer Service Charges are hereby prescribed for all premises connected to the sanitation or sewerage system of the District.

The annual Sewer Service Charge rate shall be as follows:

Fiscal Year	Sewer Service Charge per EDU
2016-2017	\$554.88
2017-2018	\$638.10
2018-2019	\$676.38
2019-2020	\$710.20
2020-2021	\$738.62

All rates shall be subject to modification and change, from time to time, as may be required to permit District to meet State and Federal Revenue Program Guidelines and as the total number of service units and the budgetary requirements of the District change. The Board of Directors may lower the Sewer Service Charge per EDU stated above upon enactment of a Resolution, based on findings that there is sufficient revenue projected to meet the long-term financial plan of the District based on the lower sewer service charge.

Sewer Service Charges shall be collected on the tax roll of the County of Napa, State of California, in the manner provided pursuant to Section 5471 through 5473.11 of the Health and Safety Code of the State of California, as amended. Pursuant to Health and Safety Code section 5473 and 5473.1, a written report containing a description of each parcel of real property receiving such services and facilities and the amount of the charge for each parcel shall be filed with the Secretary of the District.

Residential units, as shown below, are based upon the average wastewater flow for a single family dwelling. One (1) service unit shall be equivalent to 210 gallons per day with a strength factor of 1.0.

<b>Residential Unit Category</b>	<b>Annual Sewer Service Units</b>
<b>R01</b> Single Family Dwelling, Granny Units, each unit	1.0
<b>R02</b> Duplex, each unit	1.0
<b>R04</b> Condominiums & Townhouses, each unit	1.0
<b>R03</b> Triplex Apartment, each unit	0.6
<b>R03</b> Fourplex Apartment, each unit	0.6
<b>R03</b> All other Apartment Units, each unit	0.6
<b>R13</b> Single Room Occupancy, each unit	0.6
<b>R05</b> Mobile Home, per space	0.6
<b>R06</b> Overnight Trailer Parking, per space	0.4

**5.01.020 Low Income Property Owner Rebate**

In accordance with federal and state conditions, the District may elect to rebate a portion of Sewer Service Charges paid by low income property owners with respect to their residence. The District Board of Directors shall enact a Resolution to establish policies and procedures, and any necessary subsequent Resolutions to make amendments to policies and procedures, which reasonably determine for, and which implement the rebate procedure.

**5.01.030 Water Metered Commercial, Public Utilities and Public Agency Facilities**

Using a single-family dwelling as a standard, the following designated premises in the following table shall be charged based upon water consumption and strength. The strength factors noted below were calculated based upon State Water Resources Control Board Revenue Program Guidelines and using Step 2 of the formula shown in Section 5.01.060.

<b>Business Category</b>	<b>Strength Factor</b>
Automobile Sales & Service	1.0
Bakeries/Candy/Ice Cream Manufacturing	2.7
Banks/Business Offices	1.0
Bars/Nightclubs/Wine Tasting/Beer Tasting	1.0
Bed and Breakfast Inns	1.0
Café/Coffee Shop	1.4
Car Wash	0.7
Carpet & Rug Cleaners	1.4
Churches	1.0
Convalescent/Care Homes/Hospitals	1.0
Daycare Facilities/Schools (Private)	0.8
Delicatessen (no cooking)	1.4
Delicatessen (cooking)	2.0
Dry Type Industries	1.0
Funeral Homes	2.6
Hotels/Motels (without restaurants)	1.0
Hotels/Motels (with restaurants)	2.0

Laundries-Commercial	1.4
Laundries-Self Service	0.9
Markets (with disposals)	2.6
Markets (without disposals), Convenience Stores	1.4
Membership Organizations, with kitchens	2.7
Membership Organizations, without kitchens	1.0
Merchandising/Department/Retail Stores	1.0
Mixed Use (1 water meter)	1.6
Physicians/Medical/Dental Offices	1.0
Printers/Newspapers	1.0
Repair Shops/Service Stations	1.0
Restaurants and Caterers	2.7
Service Related Enterprises/Hair Salons	1.0
Theaters	1.0

For commercial facilities with mixed uses, or uses that are not included in the above table, the General Manager shall assign a strength factor based on his/her best professional judgement, an estimate of loading from the facility and/or a comparison of similar types of uses.

**5.01.040 For Non-Tourist Impacted Facilities with Extensive Landscaping or Other Non-Sewered Water Use**

For Non-Tourist Impacted Facilities With Extensive Landscaping or Other Non-Sewered Water Use, as the standard method the District may delete the four summer months or other months that represent the non-sewered water use from the sewer service charges calculations. The eight remaining months shall be averaged and that average used for the Annual Water Consumption.

As an alternative, the facility may request a credit for the amount of water used for non-sewered water use by installing a subtraction meter. Installation of the meters will be at owner's or tenant's expense. Meter readings for the previous calendar year must be reported by the owner or tenant and received by the District by January 31st to be considered for credit to the current fiscal year billing. Reporting forms and regulations will be available from the District office upon request. This program may be canceled by the General Manager for any reason, including but not limited to water meter tampering, or plumbing modification. Should the facility request to use this alternative, and then not comply with the rules and regulations, then the District shall calculate the sewer service charges according to Section 5.01.030 of this Code.

For tourist-impacted facilities such as restaurants and hotels/motels, a subtraction meter will be required in order to receive a credit for non-sewered water usage.

**5.01.050 Unmetered Commercial, Public Utilities and Public Agency Facilities**

All unmetered commercial, public utilities, public agency facilities, and schools, both public and private, shall be charged at a rate of:

Elementary	1 service unit per 48 students
Secondary	1 service unit per 17 students
Other	1 service unit per 10 employees/occupants

**5.01.060 Industrial User Waste Charges**

Except as provided in Section 5.01.061, the monthly industrial user waste charges for each industry shall be determined by using the formula in the following table.

Industrial User Sewer Service Unit Assignment Formula *		
Parameter	Cost Allocation	Assumed Loading (1.0 Unit)
Flow	50%	210 gal/day
BOD	25%	175 mg/L
TSS	25%	200 mg/L
<b>Step 1</b>		
Flow Factor	=	Daily Flow ÷ 210 gals/day or Annual Flow ÷ 76,650 gals/year
<b>Step 2</b>		
Strength Factor	=	0.50 + (BOD ÷ 175 x 0.25) + (TSS ÷ 200 x 0.25)
<b>Step 3</b>		
Equivalent Dwelling Units (EDUs)	=	(Flow Factor) x (Strength Factor)
<b>Step 4</b>		
Monthly Sewer Service Charge	=	(EDUs) x (Current Rate per EDU) ÷ 12

\* Formula is designed to provide a multiplier for high-strength flows. Minimum assignment is 1.0 service unit.

**5.01.061 Industrial User Waste Charges for Winery-Related Operations That Do Not Measure Flow and Strength**

Sewer service charges for Winery-Related Operations that have not yet installed, or receive a waiver from installing, flow meters and samplers to measure their facility's industrial wastewater flow and strength pursuant to District Code 4.04.170(D), shall be based on a fixed strength factor of 11.25, which is based upon an assumed BOD of 7,000 mg/L and TSS of 600 mg/L, multiplied by a flow factor based upon monthly flow data measured from the municipal potable water meter, after an adjustment to account for domestic waste. Monthly sewer service charges shall then be calculated using Step 4 in Section 5.01.060.

Notwithstanding the provisions above, the General Manager may determine, based upon specific circumstances of the Winery-Related Operation, to either (a) require the Industrial User to pay sewer service charges based on Section 5.01.060 or (b) adjust the fixed strength factor to reflect the specific circumstances.

#### **5.01.070 Special Outside Agreement**

Where special conditions exist relating to any outside sewer, they shall be the subject of special contract between the applicant and the District, and applicant shall be charged for sewage service in the same degree and manner as others now within the District Boundaries.

#### **5.01.075 Delinquent Sewer Service and Other Charges**

**A) Enforcement.** In the event any owner or user fails to pay when due any sewer service or other charges applicable to the premises, the District may enforce payment of such delinquent charges in any of the following manners:

- 1) The General Manager may have such premises disconnected from the sanitary sewer system in accordance with Section 4.04.180(A)(10) and no reconnection shall be made until all such charges are paid.
- 2) The General Manager may institute an action in any court of competent jurisdiction to collect any charges which may be due and payable in the same manner as any other debts owing to the District may be collected.
- 3) Any and all delinquent charges may be placed on the tax roll, and collected in the same manner, by the same persons and at the same time as property taxes in accordance with the procedures set forth in California Health and Safety Code section 5473 *et seq.* and any amendments thereto.
- 4) Such other action may be taken as may be authorized by law and by the District Board of Directors.

#### **B) Lien for Delinquent Charges and Penalties.**

- 1) Delinquent sewer service charges, penalties and other charges, when recorded in accordance with the procedures set forth in California Health and Safety Code section 5473 *et seq.* and any amendments thereto, shall constitute a lien upon the real property served and such lien shall continue until the charge and all penalties thereon are fully paid or the property is sold therefor. Any such lien shall have the same force, effect, and priority as a judgment lien.

- 2) Enforcement of Lien. As a separate, distinct, and cumulative remedy for the collection of charges and penalties thereon, the District Counsel may bring an action in the name of the District to enforce the lien of the charges and penalties.
- 3) Discharge of Lien. Property may be discharged from the lien by payment of all delinquent charges and penalties.

**C) Relief from Charges, Fees or Levies.** If the Board finds that a charge, fee or levy is unjust or inequitable because of special circumstances, it may, upon its own motion or written application of an owner or occupant of a premise, pursuant to Sections 4.01.050 and 4.01.060, fix a fair and equitable charge, fee or levy.

#### **5.01.080 Claims for Sewer Service Overcharges**

##### **A) Date of Claim**

That any claim for correction or refund of sewer service charges must be filed with the Secretary of the Board of the Napa Sanitation District within four (4) years from the date of the original payment.

##### **B) Investigation**

That all requests for correction or refund of sewer charges will be investigated and confirmed by Staff prior to presentation to the General Manager or the Board as provided below.

##### **C) Interest on Approved Claims**

That interest will accrue only on those claims for which written demand for refund is made and approved by the Board.

##### **D) Interest Accrual Date**

That interest will begin to accrue on the date the written demand for refund is made.

##### **E) Interest Rate**

That interest shall be calculated at the lesser of the rate of interest currently in effect as provided by state statute or seven percent (7%) per annum.

##### **F) Authority to Approve Claims**

All claims for refund of overpayments totally \$2,000 or less may be approved by the General Manager and all claims for refund of overpayments totaling more than \$2,000 shall be submitted to the Board of Directors.

#### **5.02 Capacity Charges**

**5.02.010 Qualify for Payment**

Capacity Charges will only be collected on legal parcels with the proper zoning for the proposed project, and with City or County and District approved construction improvement plans showing the sewer plan, profile and other details for the project.

**5.02.020 Time for Payment**

Capacity Charges shall be due and payable before the issuance of a building permit by the City or County of Napa. No connection shall be made to the District's facilities without the prior payment of the applicable connection charge. For projects that require the payment of capacity charges but do not require a City or County building permit, the General Manager shall determine the time for payment of the capacity charges.

- A. **Licensed Contractor/Builder** In the event the building for which a connection charge has been paid is not complete and issued an occupancy permit within one (1) year of issuance of the connection permit, the connection permit shall lapse and the full amount of sewer connection charge in effect at the time of the issuance of the occupancy permit shall be required, with a credit granted for the amount previously paid.
- B. **Unlicensed Builder/Owner** In the event that a residential building for which a connection charge has been paid is not complete and issued an occupancy permit within one (1) year of issuance of the connection permit, the unlicensed builder/owner may ask for an extension of time. In order to grant this extension, the unlicensed builder/owner must enter into an agreement, to be recorded by the District, that when the occupancy permit is issued, the property would not be sold for a period of two years. If the property is sold within the two-year time frame, then the full amount of sewer connection charge in effect at the time of sale shall be paid, with a credit granted for the amount previously paid.

**5.02.030 Capacity Charge Calculation**

The following fees shall be paid to the District prior to the issuance of a permit to connect with the District's sewerage works.

**A. Residential**

- 1) The capacity charge for an Equivalent Dwelling Unit (EDU) is as follows:

As of July 1, 2015	\$8,950
As of July 1, 2016	\$8,950
As of July 1, 2017	\$9,299
As of July 1, 2018	\$9,624
As of October 18, 2018	\$9,520

The charge per EDU shall increase annually according to the methodology established in Section 5.02.060.



- 2) Effective June 1, 2017, the amount of the capacity charge is determined by multiplying the current capacity charge for an EDU by the EDU Factor below for each type of residential unit:

<b>Residential Unit Type</b>	<b>EDU Factor</b>
Single Family Residence	1.0
Duplex, each unit	1.0
Triplex Fourplex or Apartment, each unit	1.0
Condominium/Townhouse	1.0
Senior Dwelling/Residential Care Facility Single Room Occupancy	0.6
Senior Dwelling/Residential Care Facility Double Room Occupancy	1.0
Mobile Home, per space	1.0
Junior Accessory Dwelling Unit	0.0
Attached Accessory Dwelling Unit	0.0
Detached Accessory Dwelling Unit	
0-499 square feet	0.0
500-599 square feet	0.5
600-699 square feet	0.6
700-799 square feet	0.7
800-899 square feet	0.8
900-999 square feet	0.9
1000+ square feet	1.0

**B. Commercial**

1) **General.** This section sets out the methodology for establishing capacity charges for commercial uses, other than industrial uses. The amount of the capacity charge is determined first by determining the Equivalent Dwelling Units (EDUs) as specified in this section (by reference to the square footage of the use, number of units, or both) and second by multiplying the number EDUs by the then-current rate for single family dwellings established in 5.02.030.A.

2) **Food Service Establishments.**

a) **Charge Methodology.** Food service establishments shall be assessed capacity charges based square footage of the entire unit, including any exterior space that will be used for sit down dining. The charge shall be based on 3.25 EDU for the first 2,000 square feet, and 3.25 EDU for each 1,000 square feet thereafter, prorated.

b) **Payment Over Time.** Food service establishments requiring 3.0 EDU or greater may elect to pay capacity charges over time in accordance with this Section. In such event, the General Manager shall require the applicant to pay a capacity charge equal to at least one EDU prior to District approval of the issuance of a building permit by the City of Napa or the County of Napa, pursuant to 5.02.020 and in conjunction therewith to enter into an agreement with the District that obligates it to pay the remaining capacity charges. The agreement shall require the applicant to pay the additional capacity charges within three years of issuance of the building permit, with a minimum annual payment equal to one (1) EDU, plus interest at a rate not to exceed

five percent (5%). The General Manager may include other provisions to ensure payment and protect the interests of the District.

- 3) **Car Washes.** Car washes shall pay capacity charges based on actual water usage the prior year. The car wash may estimate water usage for the first year of operation, with a “true up” of capacity charges at the end of the first year based on actual water usage. The fee shall be calculated using the formula in Code Section 5.02.030.C with zero values used for BOD and TSS. The District may require the installation of a secondary water meter to measure car wash flow. Annually, the car wash facility is subject to paying additional capacity charges at the then current rate if the amount of capacity used exceeds the capacity previously purchased.
- 4) **Transient Lodging Facilities.** Bed and breakfast facilities, hotels, motels, recreational vehicle parks, and campgrounds shall be assessed a capacity charge at the rate of 0.75 Equivalent Dwelling Unit (EDU) for each unit, unless any of the units include kitchens, in which case the units with kitchens shall instead be charged at the rate of 1.0 EDU for each unit. In addition, common areas in such facilities, such as meeting rooms and restaurants, shall be subject to the per-square-foot capacity set forth in this Section.
- 5) **Structures Without Plumbing.** Structures without plumbing pay capacity charges based upon building use, as provided in this Section.
- 6) **Other Commercial Units.** Applicants for commercial units, other than Food Service Establishments, shall be assessed capacity charges based on the square footage of the entire unit including outside space subject to occupancy, or as otherwise noted in the table below. The charge shall be based on the current capacity charge (Single Family Dwelling) rate per Equivalent Dwelling Unit (EDU), multiplied by the EDU factor per 1,000 square feet table below, times the number of square feet:

**EDU for Commercial Users**

<b>Type of User</b>	<b>EDU Factor/ 1,000 SF</b>
Bakery, Café, Coffee Shop, Ice Cream Shop (w/o production)	1.90
Bar, Tavern, Cocktail Lounge	1.00
Barber	0.20
Beauty Salon, Nail Salon, Hair Salon	0.28
Bowling Alley	0.70
Church	0.31
Day Care Facility	0.80
Drug Store	0.26
Dry Cleaners (no laundry)	0.25
Funeral Home/Mortuary	2.00
Garage (vehicle repair)	0.22
Grocery (w/ disposal)	0.76
Grocery (w/o disposal)	0.49
Gym (w/showers), Health Club	1.00
Gym (w/o showers)	0.22

Hall, Lodge, Meeting Rooms	0.47
Hospital	7.00
Laundromat	3.00
Laundry, Commercial	4.00
Medical/Dental Office	0.80
Nightclub w/ Dance Floor	0.70
Office (e.g., Bank, legal, accounting, government building, etc.)	0.22
Pet Grooming Shop	0.30
Pool Hall	0.60
Prison, Jail	1.60
Restroom building (rest stops, etc)	5.00
Retail stores (w/o dining)	0.22
Schools (public and private)	0.50
Service Station w/o Food Sales	0.90
Service Station w/ Food Sales, Convenience Store	1.00
Theater	0.52
Veterinarian Hospital/Clinic	0.50
Warehouse/Storage Facilities	0.05
Wine Tasting, Beer Tasting	0.70

Capacity Charge = Rate for Single Family Dwelling x square feet ÷ 1,000 x EDU Factor

There is a minimum capacity charge of 1.0 EDU.

Mixed use facilities are charged as a composite of the charge for the square footage of each use. Ancillary uses in support of the main use category shall be calculated using the main use EDU factor. For example, Warehouse/storage facility fees are charges as a composite of the charge for the square footage of office space (0.22 EDU/1,000 SF) and the charge of the square footage of warehouse/storage space (0.05 EDU/1,000 SF).

Single use facilities are charged based on the primary use. For example, a bakery with a small office in support of bakery activities is charged 1.90 EDU/1,000 SF for the entire space, including the small office.

For Other Commercial Units with uses that are not included in the above table, the General Manager shall assign an EDU factor per 1,000 SF based on his/her best professional judgement, an estimate of loading from the facility, the characteristics of the intended use and/or a comparison of similar types of use.

**C. Industrial.** Industrial capacity charges for wastewater strength and flow that exceeds domestic wastewater characteristics shall be calculated using the average daily flow, BOD, and TSS data for the anticipated peak 30-day period, with a minimum of 1.0 EDU for an industrial facility. The data shall be provided to the District. These three parameters will be applied to the following formula in the following table to determine the number of Sewer Service Units (Equivalent Dwelling Units - EDU).

Industrial User Capacity Charges Assignment Formula		
Parameter	Cost Allocation	Assumed Loading (1.0 Unit)
Flow	50%	210 gal/day
BOD	25%	175 mg/L
TSS	25%	200 mg/L
<b>Step 1</b>		
Flow Factor		= $\frac{\text{Average Daily Flow}}{210 \text{ gals/day}}$
<b>Step 2</b>		
Strength Factor		= $0.50 + (\text{BOD} \div 175 \times 0.25) + (\text{TSS} \div 200 \times 0.25)$
<b>Step 3</b>		
Equivalent Dwelling Units (EDUs)		= (Flow Factor) x (Strength Factor)
<b>Step 4</b>		
Capacity Charge		= (Equivalent Dwelling Units) x (Current Single Family Dwelling Rate)

The EDU value calculated above will then be multiplied by 1.5 to determine the maximum allowable peak day EDU. If the actual peak day EDU exceeds the maximum allowable peak day EDU, then additional capacity charges shall be due in accordance with the following formula:

**Additional Capacity Charge =**  
 **$((\text{Actual Peak Day EDU} \div 1.5) - \text{Permitted EDU}) \times \text{Current Single Family Dwelling Rate}$**

After the industry is connected to the sewer and its discharge has been monitored for a reasonable length of time as determined by the General Manager, then actual loading shall be calculated using the formulas listed above. Any additional capacity charges shall be due within 30 days of invoice date. Industries shall be limited to the capacity purchased. If an industry exceeds its allowable capacity the District will, if capacity is available, calculate and charge the industry for the additional capacity used. These fees will always be based on the single family dwelling unit capacity charge rate in effect at the time. If additional capacity is not available

then the District will assess a fine equal to twice the calculated capacity charge for each day the violation(s) occur.

Industries that utilize the above formula will be required to stay within the allowed capacity limits. The District may require continuous or intermittent sampling by the industry to ascertain the type and quantity of the industrial discharge. If the industry does not stay within the allowable peak daily flow, BOD and TSS capacity limits as defined above, then the industry will have to purchase additional capacity at the rates in effect at that time, unless the industry is eligible for and elects to lease capacity as described under District Code Section 5.02.070.

If the industry's pollutants are incompatible with the District's treatment system but will not cause a discharge or sludge disposal violation for the District, then the District may allow the connection with a special fee calculation. If the industry's pollutants will cause a discharge or sludge disposal violation, then the District will not allow the connection.

#### **5.02.040 Change of Use**

- A. Residential.** If a residential building is modified, which results in additional living units, capacity charges are due as listed above for residential units in Code Section 5.02.030(A).
- B. Commercial Expansion.** If additional commercial units and/or commercial space is created by increasing the square footage, capacity charges are due with respect to the additional square footage at the rate listed in Section 5.02.030.B.
- C. Change in Commercial Categories.** If a commercial use changes to another commercial category with a higher EDU factor, then capacity charges are due at the increased rate specified in Section 5.02.030.B, less the credit specified in Subdivision E of this Section.
- D. Commercial to Industrial.** If the use of a building changes from commercial to industrial, then capacity charges are due as listed in Code Section 5.02.030.C.
- E. Credit for Prior Use.** Notwithstanding anything to the contrary in Section 5.02, when a building changes from one use to another use and additional capacity charges are due, the building will receive credit for the capacity, as measured by Equivalent Dwelling Unit, that have been previously purchased for or allocated to that building.

#### **5.02.050 Demolition Credits**

Upon request for demolition permit, applicant must make an election regarding the treatment of the credit for the capacity from the to-be-demolished structure or structures. Once the permit is issued, the election is irrevocable. The applicant shall elect one of the following methods of treatment:

**Method 1** – Capacity charge credits would be valid for a period of two years from the date the demolition permit is issued by the District, and would remain with the parcel from which they were established. The property owner must obtain a City or County building permit within the two-year time frame in order to utilize the capacity charge credits. If a building permit is not obtained within two years, the capacity charge credit

will expire. During the period between issuance of the demolition permit and issuance of a building permit, no sewer service charges would be assessed.

**Method 2** – Capacity charge credits would not expire provided the applicant agrees to remain subject to sewer service charges after issuance of the demolition permit, acknowledging that the District would be assessing sewer service charges to the parcel during periods of no sewer flow from the parcel.

The value of the capacity allocation credits shall be based on the capacity, as measured by Equivalent Dwelling Unit, that have been previously purchased for or allocated to that building.

#### **5.02.060 Change in Fees**

On July 1, 2019, and each July 1 thereafter, the sewer capacity charge fees established herein may each escalate annually up to the February year-over-year change in the Engineering News Record Construction Cost Index 20-City Average, rounded to the nearest whole dollar, as approved by the Board of Directors in the Budget Adoption Resolution. The Board of Directors may also from time to time at its discretion, revise, alter or amend any of the sewer capacity charge fees herein set forth by adoption of the appropriate resolution.

All fees collected under Section 5.02.030 for the issuance of permits shall be deposited in the County Treasury of the County of Napa to the credit of the District in a fund designated "Expansion Fund." Such fund shall be expended from time to time for the purposes of: 1) the acquisition and construction of main trunk, interceptor and outfall sewers; 2) correction of infiltration/inflow, which consists of the rehabilitation of existing local street sewers, laterals, main trunks, interceptor and outfall sewers; 3) expansion of the District's sewage treatment facilities. However, such fund shall not be used for the acquisition or construction of new local street sewers or laterals, as distinguished from main trunk, interceptor and outfall sewers.

#### **5.02.070 Leased Capacity in Lieu of Purchased Capacity**

- A. Eligibility.** Winery-Related Operations may, at the request of the industrial user, may choose to lease capacity rather than pay for additional capacity when the facility does not stay within the capacity limits defined in Code Section 5.02.030(C). Winery-related Operations that have purchased at least 5 EDU of capacity are eligible for the Lease Program.
- B. Lease Program – Defined.** At the request of the Winery-Related Operation, the District will not require the user to purchase additional capacity when their capacity limits are exceeded. Instead, the user will be charged a surcharge on their monthly sewer service charge invoices. Payment of the leased capacity charge would supersede the requirements to pay full capacity charges for exceeding capacity.
- C. Calculation of Charge for Leased Capacity.** The amount of the monthly capacity charge lease shall equal the greatest exceedance by the user of its purchased capacity during the prior 12 month period (as calculated in Code Section 5.02.030(C)), measured in Equivalent Dwelling Units, multiplied by the capacity charge for Single Family Dwellings in effect during the invoice period, divided by 240.

**D. Leased Capacity Does Not Accrue to Parcel.** Capacity charge lease payments do not increase the amount of capacity that is allocated to the parcel.

**E. Recorded as Capacity Charges.** All revenues collected under this Section shall accrue to the District's Expansion Fund and be recognized as capacity charge revenue.

**5.02.080 Payback Charges – Fees: Additional Capacity Charges**

In addition to any other fees and charges established by the Ordinances, rules and regulations of the District, there shall be collected, prior to connection to the sanitary sewer system of the District, special additional capacity charges on a front footage basis for any parcel, unit, lot or part of any property that abuts on an existing main sewer or sewerage works of the District constructed by or at the expense of the District for which said parcel, unit, lot or part of any property did not pay its proportionate front footage cost of installation. Said charges shall be collected where the facilities to serve the property consist of a main sewer or any sewer manhole, pumping station or any other sewer facility, together with all appurtenances thereto, which were constructed by or for the District in order to coordinate the construction of said facilities with any street improvement program of the City or the County, or to meet the requirements of the District for facilities to serve areas under the District Master Plan or for meeting the anticipated requirements for sewer service from the District, or for any other reason, which facilities were paid for by the District, which additional capacity charge shall be in a sum to be computed by the District on the basis of the actual cost of the installation of said service, sewer lateral, sewer main, manhole or pumping facility, including all expenses incidental thereto and all engineering, legal, inspection, and other charges.

The payback/additional capacity charges shall each escalate the same percentage that the latest Engineering News Record Construction Cost Index for the San Francisco Bay Area annually escalated. Said escalation shall be presented annually on July 1st.

**5.02.090 Special Capacity Charges**

In addition to any other charges established herein, the District may establish special connection charges for any sewer connection when, in the opinion of the Board of Directors of the District, the circumstances of such connection necessitate the establishment of unusual conditions or necessitate the payment of charges over and above those established herein.

**5.02.100 Non-payment of Capacity Charges**

Should any capacity charge not be paid prior to issuance of a building permit as required by Section 5.02.020, the amount of the unpaid capacity charge shall be charged as a lien against the land that benefits from the sewer connection.

A. Prior to charging the lien, notice shall be given to the owner(s) of the lot(s) or parcel(s) of land affected, and the notice shall set forth all of the following:

- 1) The schedule of fees or charges to be imposed;
- 2) A description of the property subject to the fees or charges, which description may be by reference to a plat or diagram on file in the office of the Clerk of the Board, or to maps

prepared in accordance with Section 327 of the Revenue and Taxation Code, and on file in the office of the County Assessor;

- 1) The time or times at which the fees or charges shall become due;
  - 2) The number of installments in which the fees or charges shall be payable;
  - 3) The rate of interest, not to exceed 12 percent per annum, to be charged on the unpaid balance of the fees or charges;
  - 4) It is proposed that the fees or charges and interest thereon shall constitute a lien against the lot(s) or parcel(s) of land to which the sanitation facilities are furnished;
  - 5) The time and place at which the Board will hold a hearing at which persons may appear and present any and all objections they may have to the imposition of the fees or charges as a lien against the land.
- B. Except as provided in Section 5.02.100(C), the amount of the charges shall constitute a lien against the lot(s) or parcel(s) of land against which the charge has been imposed as of noon on the first Monday in March immediately preceding the date of levy.
- C. All laws applicable to the levy, collection and enforcement of general taxes of the District, including, but not limited to, those pertaining to the matters of delinquency, corrections, cancellation, refund and redemption's, are applicable to such charges, except that if any real property to which such charges relate has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrance for value has been created and attaches thereon, prior to the date on which the first installment of such taxes would become delinquent, then the lien which would otherwise be imposed by Section 5.02.100(C) shall not attach to such real property and the charges relating to such property shall be transferred to the unsecured roll of collection.

**5.03 Waste Hauler Fees**

**5.03.010 Hauled Waste Fees**

Hauled wastes including septic tank pumpage discharge shall be charged as a percentage of the annual sewer service charge for each minimum load as follows:

Domestic waste	1,500 gals	70%
Restaurant domestic waste	1,500 gals	103%
Winery waste	1,500 gals	145%
Portable toilet waste	276 gals	8%

**Example Domestic Septic Wastewater Fee for 2,500 gallons of waste:**

$$\frac{((2,500 \text{ gallon domestic waste}) \times (\text{Current Annual Sewer Service Charge Rate}) \times (0.70))}{1,500}$$



**5.03.020 Fats, Oils and Grease Hauler Fees**

- A. Fees for the acceptance of hauled FOG shall be invoiced to permitted haulers monthly and shall be subject to the District’s policies for collection of revenues and delinquent accounts receivable.
- B. The fee shall be charged based on the maximum carrying capacity of the truck making delivery of the FOG to the District.
- C. The fees shall be calculated as follows:
  - 1) From the initial date of facility operations through June 30, 2013, the fee shall be 10.0 cents per gallon.
  - 2) The per-gallon fee shall increase annually on July 1, starting in 2013, based on the annual percentage increase in the Sewer Service Charges as calculated by Section 801 of the Sewer Use Ordinance, or at any other rate approved by the Board of Directors in a resolution.
  - 3) The per-gallon fee shall be rounded to the nearest one-tenth of a cent.
  - 4) The minimum charge for any delivery shall be equivalent to a 500 gallon truck delivery.

**5.04 Development Fees**

**5.04.010 Plan Check Fees**

The District shall charge a plan check fee to recover the costs of engineering, legal and administrative services provided to evaluate building or development actions that may add, alter or extend a connection to any component of District infrastructure. The following fee schedule establishes a plan check charge for each type of development action.

The General Manager is authorized to establish administrative rules and procedures for collecting modified plan check fees as needed to recover the full costs of engineering, legal, and administrative services. The Plan Check Fee includes two submittals for plan check. If additional submittals are required for approval, then fee is assessed again, and an additional two submittals are allowed.

<b>Development Type</b>	<b>Plan Check Fee</b>
Residential Subdivision Subdivision Review Residential Lot Review	\$402.00 per subdivision plus \$101.00 per lot
Residential Lot without Mains	\$101.00 per lot
Apartment Building	\$803.00 per building
Hotel Building	\$1,204 per building
Commercial Building	\$402 per building
Tenant Improvements – Food Service	\$301.00 per tenant unit

Tenant Improvements – Non-Food Service	\$201.00 per tenant unit
Mainline Extensions – not part of a subdivision	\$101.00 per 100 linear feet of mainline extension, or portion thereof
Public Easement – not included in recorded map	\$101.00

**5.04.020 Inspection Fees**

The District shall charge an inspection fee to recover the costs of engineering, legal and administrative services associated with the inspection of building or development actions that add, alter or extend a connection to any component of District infrastructure. The following fee schedule establishes an inspection fee for each type of development action.

The General Manager is authorized to establish administrative rules and procedures for collecting modified inspection fees as needed to recover the full costs of engineering, legal and administrative services.

The Inspection Fee includes one inspection and one re-inspection. If additional inspections are required for approval, then fee is assessed again for each additional inspection.

<b>Development Type</b>	<b>Inspection Fee</b>
Public Lateral - Residential	\$179.00 per lateral
Private Lateral – New - Residential	\$179.00 per lateral
Private Lateral – Replacement or Rehabilitation – Residential	\$179.00 per lateral (Fee waived if permit secured prior to work beginning)
Residential Clean Out only	\$90.00 per cleanout
Tenant Improvement w/o outside site improvements	\$179.00
Public/Private Lateral - Commercial	\$357.00 per lateral
Grease Interceptor	\$179.00
Mainline	\$357.00 per 100 linear feet of mainline, or portion thereof

Inspection fee for inspections conducted prior to 8 am or after 4 pm on weekdays, or at any time on weekends or holidays observed by Napa Sanitation District, are charged at 1.5 times the fee listed above.

**5.04.030 Demolition Fee**

The District shall charge a demolition fee to recover the costs of engineering, legal and administrative services associated with the review, permitting and inspection of demolitions that may add, alter or extend a connection to any component of District infrastructure. The following fee schedule establishes a fee for each type of demolition.

The General Manager is authorized to establish administrative rules and procedures for collecting modified demolition fees as needed to recover the full costs of engineering, legal, and administrative services.

<b>Development Type</b>	<b>Demolition Fee</b>
Interior Demolition Only – fixtures within building	\$190.00 per demolition
Public and Private Lateral – with or without internal fixtures - External Lateral Failed Inspection	\$438.00 per demolition
Private Lateral - with or without internal fixtures - External Lateral Passed Inspection	\$264.00 per demolition

**5.04.040 Annexation Charges**

The District shall collect a minimum annexation charge prior to the commencement of proceedings by the Board on the proposed annexation. The following fee schedule sets forth the minimum charge.

The General Manager is authorized to establish administrative rules and procedures for collecting modified annexation charges as needed to recover the full costs of engineering, legal and administrative services.

<b>Development Type</b>	<b>Annexation Charge</b>
Annexation Request	\$1,204.00 per request

**5.04.050 Agreement Fees**

The District shall charge an agreement fee to recover the costs of engineering, legal and administrative services associated with the research, drafting, negotiation, review and execution of development-related agreements, including improvement agreements, indemnification agreements, deferred improvement agreements, private main agreements, and easements, that may add, alter or extend a connection to any component of District infrastructure, or impact District operations, physical assets or a financial condition. The following fee schedule establishes a fee for each type of agreement.

The General Manager is authorized to establish administrative rules and procedures for collecting modified agreement fees as needed to recover the full costs of engineering, legal and administrative services.

<b>Development Type</b>	<b>Agreement Fee</b>
Agreement Request – Standard Agreement	\$301.00 per request
Agreement Request – Non-Standard Agreement	\$1,202.00 per request

**5.04.060 Annual Increase in Fees**

Effective on July 1, 2018, and annually on July 1 thereafter, the fees identified in Section 5.04.010 through Section 5.04.050 shall increase by the Consumer Price Index for All Urban Consumers, San Francisco-Oakland-San Jose Metropolitan Area (1982-84 = 100), published by the U.S. Department of Labor’s Bureau of Labor Statistics, comparing the current December to the prior year December index, or the most comparable index if this index is no longer published by the Bureau, with the fees rounded up to the nearest whole dollar.

**5.05 Recycled Water Rates**

**5.05.010 CPI Defined**

For use in calculating recycled water rates under this section, the Consumer Price Index (CPI) shall be defined as the Consumer Price Index for All Urban Consumers, San Francisco-Oakland-San Jose Metropolitan Area (1982-84 = 100), published by the U.S. Department of Labor’s Bureau of Labor Statistics, comparing the current December to the prior year December index, or the most comparable index if this index is no longer published by the Bureau.

**5.05.020 Rates Through 2015**

For calendar year 2011, the rate shall be \$0.91 per 1,000 gallons of recycled water. For each subsequent calendar year, from 2012 through 2015, the rate shall automatically be adjusted as of the first day of January based on the changes in the CPI.

**5.05.030 Peak Period Rates**

Effective January 1, 2016, during the months of April through November, the rate shall be \$1.57 per 1,000 gallons of recycled water. For calendar years 2017 and 2018, the rate shall automatically be adjusted as of the first day of January based on the changes in the CPI. Starting January 1, 2019 and for each subsequent calendar year, the rate shall automatically be adjusted as of the first day of January based on the changes in the CPI plus 2.0%.

**5.05.040 Intermittent Non-Peak Period Rates**

Effective January 1, 2016, during the months of January, February and December, the rate shall be \$1.20 per 1,000 gallons of recycled water. For each subsequent calendar year, the rate shall be set at 75% of the recycled water rate established per Section 5.05.030 “Peak Period Rates”.

#### **5.05.050 March Rates**

Effective 2016, during the month of March, the rate shall be \$1.05 per 1,000 gallons of recycled water. For each subsequent calendar year, the rate during the month of March shall be set at 67% of the recycled water rate established per Section 5.05.030 "Peak Period Rates".

#### **5.05.060 "Must Pay" Contracts Allowed**

Effective January 1, 2016, the District may establish "must pay" contracts that include the following terms and conditions:

- A) Users agree to contract for a minimum of 150 acre feet of water during the Peak Period of April through November, whereby the user shall pay for the contracted amount of water, even if the user does not use that water during the Peak Period.
- B) Effective in 2016, the rate for recycled water used under a "must pay" contract shall be \$1.25 per 1,000 gallons. Starting in 2017 and for each subsequent year, the "must pay" contract rate shall be set at 80% of the recycled water rate established per Section 5.05.030 "Peak Period Rates".
- C) For recycled water used in excess of the amount of water contracted during the Peak Period, users shall pay at the rate established per Section 5.05.030 "Peak Period Rates".
- D) For recycled water used from December through March, users shall pay the rate established in Section 5.05.040 "Intermittent Non-Peak Period Rate" and Section 5.05.050 "March Rates". Any amount of recycled water used from December through March does not count as water used under the "must pay" contract.

#### **5.05.070 Monthly Meter Charge**

Effective January 1, 2016, the District shall establish a monthly meter charge of \$31.13 for the billing periods May through October. Starting January 1, 2017 and for each subsequent calendar year, the monthly meter fee shall automatically be adjusted as of the first day of January based on the changes in the CPI.

#### **5.05.080 Rates Rounded**

All recycled water rates and monthly meter charges shall be rounded to the nearest cent.

#### **5.05.090 Authority to Waive Fees**

The Director of Administrative Services is authorized to waive recycled water fees in sections 5.05.030, 5.05.040, and 5.05.050 when the total monthly amount due for recycled water usage is less than five dollars (\$5.00).

#### **5.05.100 User Defined**

For purposes of this Section, a user shall be defined as a person or legal entity that contracts with the District for the use of recycled water and assumes the financial and other responsibilities incurred from such use.

#### 5.05.110 Recycled Water Shortage

- A) **Declaration of Recycled Water Shortage.** The Board of Directors may, by resolution, declare a shortage or anticipated shortage of water available to produce recycled water for customers for a specified period of time.
- B) **Public Notice Required.** A Declaration of Recycled Water Shortage may be passed by Resolution only after all then-current recycled users have been notified in writing of the potential Declaration and the impacts of such a Declaration, and only after a hearing by the Board of Directors on the Declaration.
- C) **Limit Usage.** Upon a Declaration of Recycled Water Shortage, the Board of Directors may, by Resolution, limit the recycled water made available to recycled water users, based on the anticipated availability of wastewater flowing into the Soscol Water Recycling Facility and the water stored by the District.
- D) **Temporary Rate Increase.** Upon a Declaration of Recycled Water Shortage, the Board of Directors may, by Resolution, set the price of recycled water higher than established in Sections 5.05.030 – 5.05.060, inclusive, up to ten (10) times the established rate, for a period of up to six (6) months, for the purpose of encouraging conservation during the period of the Recycled Water Shortage.